

18-cv-2710

**EXHIBIT E**

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BROOKLYN OFFICE

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----X  
4 MARIO H. CAPOGROSSO

5 Plaintiff,

Case No:

6 - against -

1:18-CV-02710

(EKLb)

7 ALAN GELBSTEIN, et al.,

8 Defendants.  
9 -----X

10  
11 December 18, 2020

9:45 a.m.

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17 VIRTUAL VIDEOTAPED EXAMINATION BEFORE TRIAL OF

18  
19 MARIO H. CAPOGROSSO, the Plaintiff, pursuant to

20  
21 Notice, taken at the above date and time, before

22  
23 MARIA ACOCELLA, a Notary Public within and for the

24  
25 State of New York.

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<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3</p> <p>4 MARIO H. CAPOGROSSO, ESQ., Pro Se</p> <p>5 21 Sheldrake Place</p> <p>6 New Rochelle, New York 10804</p> <p>7</p> <p>8</p> <p>9</p> <p>10 STATE OF NEW YORK</p> <p>11 OFFICE OF THE ATTORNEY GENERAL</p> <p>12 LETITIA JAMES</p> <p>13 Attorneys for Defendants</p> <p>14 28 Liberty Street</p> <p>15 New York, New York 10005</p> <p>16 BY: JAMES THOMPSON, ESQ.,</p> <p>17 Assistant Attorney General</p> <p>18 Litigation Bureau</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 ALSO PRESENT: Howard Brodsky, Videographer</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 Mario H. Capogrosso</p> <p>2 MR. THOMPSON: Yes. James M.</p> <p>3 Thompson, from the Office of the</p> <p>4 Attorney General, Letitia James,</p> <p>5 Attorney General of the State of</p> <p>6 New York, 28 Liberty Street, New York,</p> <p>7 New York 10005 on behalf of the State</p> <p>8 Defendants.</p> <p>9 THE WITNESS: I am Mario</p> <p>10 Capogrosso, Pro Se Plaintiff who happens</p> <p>11 to also be an attorney; 21 Sheldrake</p> <p>12 Place, New Rochelle, New York 10804.</p> <p>13 THE VIDEOGRAPHER: Thank you,</p> <p>14 Counsel.</p> <p>15 I am sorry. Go ahead.</p> <p>16 MR. THOMPSON: One slight</p> <p>17 correction, Mr. Brodsky, on the case</p> <p>18 number. The suffix is now -- the case</p> <p>19 number is correct, but the suffix is now</p> <p>20 EKL B. A couple of months ago we were</p> <p>21 assigned a different judge.</p> <p>22 THE VIDEOGRAPHER: Thank you very</p> <p>23 much for that correction, Counsel.</p> <p>24 The parties have stipulated and</p> <p>25 agreed that the court reporter may take</p>
<p style="text-align: right;">Page 3</p> <p>1 Mario H. Capogrosso</p> <p>2 THE VIDEOGRAPHER: Good morning. Here</p> <p>3 begins the video recorded virtual</p> <p>4 remote deposition of Mario H.</p> <p>5 Capogrosso, appearing from his location</p> <p>6 in New Rochelle, New York.</p> <p>7 This deposition is taken by the</p> <p>8 Defendants in the matter of Mario H.</p> <p>9 Capogrosso, Plaintiff, against Alan</p> <p>10 Gelbstein, et al. defendants, Case</p> <p>11 Number 1:18-CV-02710 and KBLB in the</p> <p>12 United States District Court for the</p> <p>13 Eastern District of New York.</p> <p>14 Today is Friday, December 18,</p> <p>15 2020. The time is approximately 9:45</p> <p>16 a.m. eastern standard time.</p> <p>17 My name is Howard Brodsky, and I</p> <p>18 am the legal video specialist in</p> <p>19 association with Veritext Legal</p> <p>20 Solutions with offices, located in</p> <p>21 New York, New York. The court reporter</p> <p>22 is Maria Acocella, in association with</p> <p>23 Veritext.</p> <p>24 Will counsel please state their</p> <p>25 appearances for the record.</p>	<p style="text-align: right;">Page 5</p> <p>1 Mario H. Capogrosso</p> <p>2 the witness's oath remotely.</p> <p>3 Will the court reporter please</p> <p>4 swear in the witness.</p> <p>5 THE COURT REPORTER: Can you</p> <p>6 raise your right hand for me.</p> <p>7 Do you solemnly swear the</p> <p>8 testimony you are about to give will be</p> <p>9 the whole truth and nothing but the</p> <p>10 truth, so help you God?</p> <p>11 THE WITNESS: Yes, I do.</p> <p>12 THE COURT REPORTER: Thank you.</p> <p>13 MR. THOMPSON: Thank you very</p> <p>14 much, Mr. Capogrosso.</p> <p>15 MARIO H. CAPOGROSSO, the</p> <p>16 Plaintiff herein, having been first duly</p> <p>17 sworn by a Notary Public within and for the</p> <p>18 State of New York, was examined and</p> <p>19 testified as follows:</p> <p>20 EXAMINATION BY</p> <p>21 MR. THOMPSON:</p> <p>22 Q. My name is James Thompson. I am</p> <p>23 Assistant Attorney General, and I represent</p> <p>24 the defendants in this lawsuit.</p> <p>25 So during the deposition there is</p>

<p style="text-align: right;">Page 6</p> <p>1 Mario H. Capogrosso</p> <p>2 a couple of preliminaries. I am going to be</p> <p>3 asking you a number of questions, and there</p> <p>4 is a handful of things that are helpful to</p> <p>5 remember for the benefit of the transcript</p> <p>6 and the court reporter, first of which is</p> <p>7 when I ask a question, please wait until the</p> <p>8 end of my question before beginning your</p> <p>9 answer. That way, we don't have the two of</p> <p>10 us talking at the same time.</p> <p>11 If I ask a question that you</p> <p>12 don't understand, please ask me clarify it.</p> <p>13 If you give me an answer, I will assume that</p> <p>14 you understood the question.</p> <p>15 Similarly, please make all your</p> <p>16 answers are verbal. In regular conversation</p> <p>17 you have people respond by nodding their head</p> <p>18 or shaking their head and saying uh-huh or</p> <p>19 uh-uh, and that can make the transcript</p> <p>20 difficult, even in a case like this one,</p> <p>21 where we have a videographer.</p> <p>22 And if at any point in the</p> <p>23 deposition you feel like you need a break,</p> <p>24 just ask me, and we will take one. I may ask</p> <p>25 you to finish answering the question that I</p>	<p style="text-align: right;">Page 8</p> <p>1 Mario H. Capogrosso</p> <p>2 your ability to answer questions truthfully</p> <p>3 today?</p> <p>4 A. No.</p> <p>5 Q. Did you take any medication that</p> <p>6 could affect your ability to answer questions</p> <p>7 today?</p> <p>8 A. No.</p> <p>9 Q. Is there any other reason why you</p> <p>10 might not be able to give complete and</p> <p>11 truthful answers to the questions that you</p> <p>12 are asked today?</p> <p>13 A. Absolutely not.</p> <p>14 Q. Great. Sir, are you represented</p> <p>15 by counsel?</p> <p>16 A. I am representing myself. I am</p> <p>17 an attorney. I am representing myself.</p> <p>18 Q. And have you ever been</p> <p>19 represented by counsel in this case?</p> <p>20 A. No.</p> <p>21 Q. So what did you do to prepare for</p> <p>22 today's deposition?</p> <p>23 A. I read -- I read my complaint. I</p> <p>24 read all the pleadings that were filed in my</p> <p>25 complaint. I read all the exhibits that I</p>
<p style="text-align: right;">Page 7</p> <p>1 Mario H. Capogrosso</p> <p>2 posed or a short line of questioning. But if</p> <p>3 you need a break, just let me know, and we</p> <p>4 will definitely take it.</p> <p>5 Does all of that make sense?</p> <p>6 A. Yes.</p> <p>7 Q. Great. So Mr. Capogrosso, what</p> <p>8 is your full name?</p> <p>9 A. Mario H -- Mario Henry</p> <p>10 Capogrosso.</p> <p>11 Q. And what is your date of birth,</p> <p>12 sir?</p> <p>13 A. July 4, 1961.</p> <p>14 Q. And have you ever been deposed</p> <p>15 before?</p> <p>16 A. No.</p> <p>17 Q. And do you understand that you</p> <p>18 are under oath today?</p> <p>19 A. Yes.</p> <p>20 Q. And what is your understanding of</p> <p>21 what that means?</p> <p>22 A. That I will tell the truth, as I</p> <p>23 always have.</p> <p>24 Q. Are you suffering from any</p> <p>25 illness or other condition that could affect</p>	<p style="text-align: right;">Page 9</p> <p>1 Mario H. Capogrosso</p> <p>2 filed, all the response to discovery that you</p> <p>3 provided; and that was it.</p> <p>4 Q. Have you discussed this</p> <p>5 deposition with anyone?</p> <p>6 A. No.</p> <p>7 Q. All right. So, Mr. Capogrosso,</p> <p>8 where did you grow up?</p> <p>9 A. In the Bronx, New York.</p> <p>10 Q. And where did you go to high</p> <p>11 school?</p> <p>12 A. Iona Prep in New Rochelle.</p> <p>13 Q. And college?</p> <p>14 A. I went to three colleges. I have</p> <p>15 a bachelor's of art from Columbia University</p> <p>16 in 1983. And in 1992 I got a bachelor's of</p> <p>17 science in mechanical engineering from</p> <p>18 Manhattan College School of Engineering. And</p> <p>19 I graduated from Quinnipiac School of Law in</p> <p>20 May of 2000.</p> <p>21 Q. So tell me about that.</p> <p>22 You graduated from college in</p> <p>23 1983m and what did you do after you</p> <p>24 graduated?</p> <p>25 A. I worked -- let me look at my</p>

<p style="text-align: right;">Page 10</p> <p>1 Mario H. Capogrosso</p> <p>2 resume.</p> <p>3 I worked as a laborer in a</p> <p>4 construction, which my father was a project</p> <p>5 manager for -- i.e., executive in the</p> <p>6 construction company. I worked for him for</p> <p>7 several years because I enjoyed it, truly</p> <p>8 liked being outside, after sitting in a</p> <p>9 classroom. And I didn't know which direction</p> <p>10 to take my career in. I worked as a laborer.</p> <p>11 Then I worked for a construction</p> <p>12 company as draftsman and as a project</p> <p>13 engineer out in the field.</p> <p>14 Then I went -- decided to get my</p> <p>15 engineering degree, and I went to engineering</p> <p>16 school and finished my engineering degree.</p> <p>17 Q. So why did you decide to get an</p> <p>18 engineering degree?</p> <p>19 A. Because I was working in the</p> <p>20 engineering field. I enjoyed it. I enjoyed</p> <p>21 it very much. I enjoyed the guys I was</p> <p>22 working with. I enjoyed the people I was</p> <p>23 working with. And I enjoyed working with my</p> <p>24 dad very much. And wanted to go back and get</p> <p>25 my engineering degree, which I did.</p>	<p style="text-align: right;">Page 12</p> <p>1 Mario H. Capogrosso</p> <p>2 to different job sites, nuclear sites.</p> <p>3 So -- and the one thing that I</p> <p>4 was taught at these job sites, nuclear sites,</p> <p>5 is that you tell the truth. You be very</p> <p>6 truthful and very direct, because if you</p> <p>7 don't, there are severe consequences. So</p> <p>8 that is my personality.</p> <p>9 Q. Okay.</p> <p>10 A. I worked at nuclear power plants</p> <p>11 and in various parts of the country. It was</p> <p>12 design work and engineering work.</p> <p>13 Q. And you said the name of that</p> <p>14 company was Ebasco Company, I am sorry?</p> <p>15 A. Ebasco, E-B-A-S-C-O, Esbaso,</p> <p>16 which later became Racions (phonetic)</p> <p>17 Engineers and Constructors.</p> <p>18 Actually, before then it was</p> <p>19 Washington Group International.</p> <p>20 Q. And --</p> <p>21 A. Go ahead.</p> <p>22 Q. How long did you work for them?</p> <p>23 A. I worked at -- let me see -- I</p> <p>24 worked between 1992 and 1996 at various</p> <p>25 engineering companies.</p>
<p style="text-align: right;">Page 11</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. And did you like engineering</p> <p>3 school?</p> <p>4 A. I liked -- well, it was fun. I</p> <p>5 mean, I enjoyed the mathematical part of it,</p> <p>6 yes. I enjoyed the people, and I enjoyed</p> <p>7 the -- I was good at it. I was a good</p> <p>8 engineer. I still am a good engineer.</p> <p>9 Q. So how long -- well, actually, I</p> <p>10 am getting ahead of myself.</p> <p>11 What did you do after you</p> <p>12 graduated engineering school?</p> <p>13 A. I worked for an engineering</p> <p>14 company, several engineering companies.</p> <p>15 Q. What did your duties there</p> <p>16 entail?</p> <p>17 A. Well, I was hired by Ebasco</p> <p>18 Engineering. I worked at a nuclear power</p> <p>19 plant as a project engineer, Nuclear power</p> <p>20 plant design engineer.</p> <p>21 I did both design work and</p> <p>22 project work. I was responsible for the</p> <p>23 design work at several nuclear power plants,</p> <p>24 and I enjoyed it. I liked it. It was fun.</p> <p>25 I enjoyed it. I traveled a lot. I had to go</p>	<p style="text-align: right;">Page 13</p> <p>1 Mario H. Capogrosso</p> <p>2 No, I worked -- no, I am sorry.</p> <p>3 1992 to 1994 I worked for Ebasco Engineers,</p> <p>4 then I worked from '94 to '96 with a</p> <p>5 construction company that was doing retrofit</p> <p>6 work on power plants. Then I worked for --</p> <p>7 as a mechanical engineer to 2001, Washington</p> <p>8 Group International, at various other nuclear</p> <p>9 power plants.</p> <p>10 And then I worked for BGA</p> <p>11 Consulting Engineers, which we did also work</p> <p>12 at nuclear plants, because they liked my work</p> <p>13 in 2003.</p> <p>14 Q. And, Mr. Capogrosso, you look</p> <p>15 from the picture as if you are looking at a</p> <p>16 document there; is that correct?</p> <p>17 A. My resume.</p> <p>18 Q. Can I ask for a copy of that to</p> <p>19 be produced to us?</p> <p>20 A. Yeah, sure.</p> <p>21 Q. Do you have any other documents</p> <p>22 that you are looking at, as you are giving</p> <p>23 testimony today?</p> <p>24 A. Well, I have all the exhibits</p> <p>25 that I provided to you yesterday and I</p>

4 (Pages 10 - 13)



<p style="text-align: right;">Page 14</p> <p>1 Mario H. Capogrosso</p> <p>2 provided in this case, and I have all your</p> <p>3 discovery. That is what I have to refresh my</p> <p>4 recollection.</p> <p>5 Q. Okay. So can you list for me the</p> <p>6 documents you have in front of you? Because</p> <p>7 normally when you do a deposition, there is</p> <p>8 no documents in front of the witness other</p> <p>9 than what is put in front of them as an</p> <p>10 exhibit.</p> <p>11 A. Well, I do have certain exhibits.</p> <p>12 I have all the exhibits that were provided to</p> <p>13 you yesterday. That is what I have. That is</p> <p>14 what I have in front me.</p> <p>15 Q. Okay.</p> <p>16 A. There are 86 exhibits. I have</p> <p>17 all 86 exhibits. You don't want me to refer</p> <p>18 to them to refresh my recollection, well,</p> <p>19 then you have to make an objection, but that</p> <p>20 is what I have in front me.</p> <p>21 Q. The problem is that since we are</p> <p>22 on Zoom, I can't see what is in front of you</p> <p>23 in the way I could if we were all around the</p> <p>24 table together. So can I ask you to please</p> <p>25 clear the desk in front of you.</p>	<p style="text-align: right;">Page 16</p> <p>1 Mario H. Capogrosso</p> <p>2 A. Not really. Not really.</p> <p>3 I worked as an engineer after I</p> <p>4 graduated. I graduated in 2000. I still</p> <p>5 enjoyed working as an engineer.</p> <p>6 But the company I worked for</p> <p>7 wanted me to travel, and I didn't want to</p> <p>8 travel anymore. They wanted me to go to the</p> <p>9 west coast, California, and be an engineer in</p> <p>10 one of the power -- out in Washington State,</p> <p>11 actually, not California.</p> <p>12 I didn't want to go to Washington</p> <p>13 State. I just didn't. I said, let me -- I</p> <p>14 passed two bars, New York and Connecticut,</p> <p>15 but I was still working as an engineer.</p> <p>16 I said, all right. Let me send</p> <p>17 out a resume, see if somebody gives me a job.</p> <p>18 I got a job offer, and I went and took it.</p> <p>19 Q. And where -- where was that job</p> <p>20 offer?</p> <p>21 A. That job offer was at the</p> <p>22 Brooklyn TVB.</p> <p>23 Q. Okay. So you applied to work at</p> <p>24 the Brooklyn TVB?</p> <p>25 A. No. I applied to an attorney,</p>
<p style="text-align: right;">Page 15</p> <p>1 Mario H. Capogrosso</p> <p>2 A. It is cleared. It is cleared.</p> <p>3 Q. Thank you.</p> <p>4 So, Mr. Capogrosso, why did you</p> <p>5 decide to go to law school?</p> <p>6 A. I liked learning. I liked, you</p> <p>7 know, pursuing academic endeavors.</p> <p>8 And truthfully, I was married and</p> <p>9 divorced, and I was sitting in my apartment</p> <p>10 all alone. I said -- I had nothing to do at</p> <p>11 night. Let me go to law school; it will give</p> <p>12 me something to do.</p> <p>13 I put in an application. I take</p> <p>14 the exam. And I didn't study very long for</p> <p>15 the exam; took the book, I read through it.</p> <p>16 They accepted me into law school.</p> <p>17 So rather than sitting at home in the</p> <p>18 apartment, I figured let me sit in a law</p> <p>19 school. So I worked as an engineer during</p> <p>20 the day, and at night I went to law school,</p> <p>21 for four years. Helped me get through my</p> <p>22 divorce, kept me busy.</p> <p>23 Q. And did you have a particular</p> <p>24 career intention when you applied to law</p> <p>25 school?</p>	<p style="text-align: right;">Page 17</p> <p>1 Mario H. Capogrosso</p> <p>2 Terry Kalker, who is a lawyer down there who</p> <p>3 was looking for a lawyer. I sent him [sic]</p> <p>4 my resume. She [sic] responded. I said, you</p> <p>5 know, I don't know what type of work she did.</p> <p>6 But I went down, started working</p> <p>7 for her as one of her attorneys.</p> <p>8 Q. And how do you spell Ms. Kalker's</p> <p>9 name?</p> <p>10 A. K-A -- I think K-A-L-K-E-R.</p> <p>11 Q. And so can you tell me a little</p> <p>12 bit about working for Ms. Kalker?</p> <p>13 A. Well, when I worked for her, it</p> <p>14 seemed fine when I first started. When I</p> <p>15 first started, it seemed fine.</p> <p>16 But she made certain</p> <p>17 representations to me that she didn't</p> <p>18 fulfill. Now I was getting -- now medical</p> <p>19 insurance is very important to me, and making</p> <p>20 a representation of following through with it</p> <p>21 is very important to me.</p> <p>22 She made a representation that I</p> <p>23 would have medical insurance after three</p> <p>24 months. I worked for her for three months,</p> <p>25 and I said, where is my medical insurance?</p>

5 (Pages 14 - 17)

<p style="text-align: right;">Page 18</p> <p>1 Mario H. Capogrosso</p> <p>2 Because I had it in my previous job.</p> <p>3 Working for an engineer, if they</p> <p>4 say something, they do it.</p> <p>5 Terry Kalker didn't do that. She</p> <p>6 said, well, you will get medical insurance a</p> <p>7 year and three months from now, which upset</p> <p>8 me greatly, very greatly.</p> <p>9 So at that point I said, all</p> <p>10 right, you don't want to pay me medical</p> <p>11 insurance, you are not upholding what you</p> <p>12 said you were going to do.</p> <p>13 I left her and went into practice</p> <p>14 for myself. And that is what I started doing</p> <p>15 in June, June of 2005. I started work for</p> <p>16 Terry Kalker in April 2005, April or March of</p> <p>17 2005. I only spent three or four months with</p> <p>18 her.</p> <p>19 Q. And how did she respond when you</p> <p>20 objected?</p> <p>21 A. She continued with that</p> <p>22 affirmation, you will get your insurance from</p> <p>23 a year. I said, that is unacceptable. I</p> <p>24 said, you can't make a representation and</p> <p>25 don't follow through with it.</p>	<p style="text-align: right;">Page 20</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. And that is without expenses?</p> <p>3 A. Without expenses. Without</p> <p>4 medical insurance. No, maybe it was 50. I</p> <p>5 am not sure. I think maybe it was 50. Maybe</p> <p>6 it was 50. I think she offered 40, and I got</p> <p>7 her up to 50, something like that, between 40</p> <p>8 and 50. It was either 40 or 50. I am not</p> <p>9 exactly sure. I don't remember. She paid</p> <p>10 me, you know, a weekly check. It might have</p> <p>11 been 50. Might have been.</p> <p>12 Q. And how did that compare to your</p> <p>13 engineer -- your work at the engineering</p> <p>14 firm? What were you paid there?</p> <p>15 A. I was paid more, and they were</p> <p>16 paying expenses. I don't recall the exact</p> <p>17 last salary I had as an engineer, but it was</p> <p>18 more than that.</p> <p>19 Q. Do you have a ballpark figure,</p> <p>20 approximately?</p> <p>21 A. Maybe 57 or 80, plus they gave me</p> <p>22 per diem, which means when I went to a job</p> <p>23 site, which I often did, they gave me a daily</p> <p>24 per diem.</p> <p>25 Or if I had to stay there for</p>
<p style="text-align: right;">Page 19</p> <p>1 Mario H. Capogrosso</p> <p>2 So at that point I really -- I</p> <p>3 started not to trust this woman anymore. I</p> <p>4 said, that is enough. She was sent in -- I</p> <p>5 normally, with my engineering firm, if they</p> <p>6 sent me someplace, they always paid my</p> <p>7 expenses.</p> <p>8 She said she was going to pay</p> <p>9 expenses, and then she decided not to pay</p> <p>10 expenses. And she sending me to all</p> <p>11 different courts, all over Long Island and</p> <p>12 Upstate New York. I said, I can't afford</p> <p>13 this. I can't afford it. Gas, tolls.</p> <p>14 So at that point I said, you</p> <p>15 know, you are not going to truthful with me,</p> <p>16 I don't feel comfortable working with you. I</p> <p>17 decided to end it.</p> <p>18 My clients who I was representing</p> <p>19 liked me, liked my representation, so I said,</p> <p>20 I will do this on my own, which is what I</p> <p>21 did.</p> <p>22 Q. So what was your salary with</p> <p>23 Ms. Kalker?</p> <p>24 A. That beginning salary, what I</p> <p>25 recall was \$40,000 a year, back in 2005.</p>	<p style="text-align: right;">Page 21</p> <p>1 Mario H. Capogrosso</p> <p>2 several months, they gave me per diem to pay</p> <p>3 for my living expenses. They treated their</p> <p>4 employees very well.</p> <p>5 But I made the decision to try to</p> <p>6 be a lawyer, because I went to law school at</p> <p>7 night. I didn't want to do any more</p> <p>8 traveling. I made that decision, and I</p> <p>9 wanted to stay in one place for a while.</p> <p>10 And my company wanted me to</p> <p>11 travel, and I didn't want to travel anymore,</p> <p>12 and so I said, let me give it -- I went to</p> <p>13 law school and I passed two exams, so let me</p> <p>14 try it. And I did, and my clients liked me.</p> <p>15 Q. And so you started your practice</p> <p>16 before TVB, your solo practice before the TVB</p> <p>17 at -- in summer of 2005, correct?</p> <p>18 A. June, early July, late June,</p> <p>19 early July 2005.</p> <p>20 Q. And can you sort of describe your</p> <p>21 practice to me.</p> <p>22 A. I represented motorists at</p> <p>23 hearings, traffic violation hearings. The</p> <p>24 clients loved me. Police officers didn't</p> <p>25 like me because I really grilled them, did</p>



<p style="text-align: right;">Page 22</p> <p>1 Mario H. Capogrosso</p> <p>2 grill them. I went after them.</p> <p>3 My clients loved me; they did.</p> <p>4 I submitted several reviews to</p> <p>5 you, many reviews. My clients really liked</p> <p>6 me as an attorney, they did. Police officers</p> <p>7 didn't. I really went after a police officer</p> <p>8 in the court, I did. It was my obligation.</p> <p>9 I felt an obligation to my clients to</p> <p>10 zealously defend.</p> <p>11 I remember taking that oath when</p> <p>12 I got admitted into the bar, you have an</p> <p>13 obligation to zealously defend, and that is</p> <p>14 what I did.</p> <p>15 Q. Was your practice primarily in</p> <p>16 the South Brooklyn TVB?</p> <p>17 A. Yes, pretty much. Occasionally I</p> <p>18 would get -- what happens is you get a ticket</p> <p>19 that sometimes go to other courts, another</p> <p>20 tribunal, so if you took it -- you take it,</p> <p>21 you went. Sometimes you get one Upstate,</p> <p>22 Upstate New York or Long Island. And you</p> <p>23 took the case, you had to go, and I went.</p> <p>24 Predominately it was in Brooklyn South.</p> <p>25 Q. If you have to put a percentage</p>	<p style="text-align: right;">Page 24</p> <p>1 Mario H. Capogrosso</p> <p>2 violations, summons that had criminal</p> <p>3 implications. They were held at a different</p> <p>4 court, and I went there. But for the most</p> <p>5 part, that was it.</p> <p>6 Q. Did you do any other criminal</p> <p>7 work outside of the pink tickets?</p> <p>8 A. I had one where a guy was accused</p> <p>9 of stealing some groceries from a grocery</p> <p>10 store, and another one where a man got</p> <p>11 involved in an altercation with his --</p> <p>12 another man concerning parking his truck in</p> <p>13 front of his business.</p> <p>14 And I went down to Red Hook</p> <p>15 Criminal Court in Red Hook. I went out to</p> <p>16 immigration court once, and I represented a</p> <p>17 client there who never showed up for his</p> <p>18 hearing, and the case got thrown out. That</p> <p>19 is what I recall. That is what I recall.</p> <p>20 Q. And so no other administrative</p> <p>21 tribunal other than TVB?</p> <p>22 A. No. That would be it.</p> <p>23 Q. Did you ever practice before the</p> <p>24 OATH, the Office of Administrative Trials and</p> <p>25 Hearings for New York City?</p>
<p style="text-align: right;">Page 23</p> <p>1 Mario H. Capogrosso</p> <p>2 on that, what percent of your work would you</p> <p>3 say was in the South Brooklyn TVB?</p> <p>4 A. Ninety percent. 90 percent.</p> <p>5 Q. Did you practice before any other</p> <p>6 administrative tribunals other than the TVB?</p> <p>7 A. Let me think. Other</p> <p>8 administrative.</p> <p>9 I went to criminal court, 346</p> <p>10 Broadway, which is down in New York City. I</p> <p>11 went to criminal court often. Occasionally.</p> <p>12 Sometimes they had a pink ticket,</p> <p>13 which is not a yellow ticket, and I would</p> <p>14 have to go down to criminal court. But that</p> <p>15 wasn't a --</p> <p>16 Q. Can you explain that to me?</p> <p>17 A. Well, sometimes some of these</p> <p>18 motorists would get, as opposed to a yellow</p> <p>19 ticket, they would get a pink ticket, which</p> <p>20 was covered by the penal code of New York</p> <p>21 State, and it is a little more graver</p> <p>22 implications.</p> <p>23 Normally everything got pled out.</p> <p>24 But I would go down to certain criminal</p> <p>25 courts. That's where police officers gave</p>	<p style="text-align: right;">Page 25</p> <p>1 Mario H. Capogrosso</p> <p>2 A. No. I would have remembered</p> <p>3 that.</p> <p>4 Q. So you said that you had</p> <p>5 litigated a couple of criminal cases in</p> <p>6 New York State Court and one immigration</p> <p>7 case.</p> <p>8 Have you litigated any other</p> <p>9 cases in State court, criminal or civil?</p> <p>10 A. Well, after that point in time I</p> <p>11 worked for an attorney down in Brooklyn, so</p> <p>12 yes, there were other cases I have litigated.</p> <p>13 I worked for an attorney in</p> <p>14 Connecticut after I was removed from the</p> <p>15 Brooklyn TVB system, the New York TVB system.</p> <p>16 I worked for an attorney in Connecticut.</p> <p>17 I worked for an attorney -- as an</p> <p>18 independent -- well, and I worked for an</p> <p>19 attorney in Brooklyn.</p> <p>20 Q. So let's step back to the TVB for</p> <p>21 a second.</p> <p>22 Did you like practicing at TVB?</p> <p>23 A. I loved it. I loved it. They</p> <p>24 were short: Got there at 8:30 the day was</p> <p>25 over by 4:00. I loved it. I loved my</p>

<p style="text-align: right;">Page 26</p> <p>1 Mario H. Capogrosso</p> <p>2 clients. My clients loved me. I liked it.</p> <p>3 It wasn't a whole bunch of preparation for</p> <p>4 it.</p> <p>5 It was the same defenses, for the</p> <p>6 most part. I liked being the courtroom. I</p> <p>7 liked to speak. My clients liked me.</p> <p>8 I was right down by the water. I</p> <p>9 loved going to the beach. Afterwards, I</p> <p>10 would go to beach. I loved it. It was a</p> <p>11 short day. It was nice. I loved it.</p> <p>12 Q. You said a short day.</p> <p>13 What were your average hours?</p> <p>14 A. 8:30. Court opened at 8:30. Got</p> <p>15 there right at 8:30 or 8:15. The doors</p> <p>16 opened right at 8:30, and the day ended</p> <p>17 Monday, Tuesday, Wednesday, Friday by 4:00.</p> <p>18 All cases are wrapped up by 3:30. On</p> <p>19 Thursday it went later, until 6:00. That was</p> <p>20 a late day.</p> <p>21 All you had to make sure was that</p> <p>22 your calendar was kept properly. Calendar</p> <p>23 was very important. You had to make sure</p> <p>24 your calendar was right, and you had to make</p> <p>25 sure you stayed in contact with these</p>	<p style="text-align: right;">Page 28</p> <p>1 Mario H. Capogrosso</p> <p>2 long were you planning on continuing to</p> <p>3 practice at the TVB? Were you thinking of</p> <p>4 retiring at some point?</p> <p>5 A. I am a working man. I am going</p> <p>6 to die -- I am going to work until I die. I</p> <p>7 am a working man. I was brought up that way.</p> <p>8 I told you after I left Columbia,</p> <p>9 my father put me as a laborer, and I worked</p> <p>10 as a laborer. I am a working man. I am</p> <p>11 going to work until I can't work anymore. I</p> <p>12 don't believe in retirement. I am going to</p> <p>13 work until I can't work any longer. That is</p> <p>14 my opinion. That is how I --</p> <p>15 Q. All right. So after you were</p> <p>16 expelled from practicing before the TVB in</p> <p>17 2015, what did do you for work?</p> <p>18 A. Afterwards, very difficult to</p> <p>19 find work. I am not a youngster. Very</p> <p>20 difficult finding work. I sent out resumes.</p> <p>21 First of all, first of all, the</p> <p>22 most important thing I did is I called every</p> <p>23 one of my clients. I had 850 clients. I</p> <p>24 called every one of them. I said, give me</p> <p>25 your address, and I have to return money.</p>
<p style="text-align: right;">Page 27</p> <p>1 Mario H. Capogrosso</p> <p>2 motorists.</p> <p>3 They wanted to know what</p> <p>4 happened. I would make phone calls all the</p> <p>5 time, whether I won, I lost. I always told</p> <p>6 them to show up. I always wanted my client</p> <p>7 with me in a courtroom, always. I wanted</p> <p>8 them to hear what I did and what I said. I</p> <p>9 wanted them to know, if they gave me money, I</p> <p>10 was defending them. I wanted them to know</p> <p>11 that.</p> <p>12 A lot of other motorists -- other</p> <p>13 attorneys didn't like that. They didn't want</p> <p>14 their motorists showing up. I wanted my</p> <p>15 guys --</p> <p>16 Q. So did you ever --</p> <p>17 A. Go ahead.</p> <p>18 Q. Did you ever consider taking</p> <p>19 another job while you were at the TVB?</p> <p>20 A. No. I liked it. No, I really</p> <p>21 liked it. I enjoyed. I enjoyed it.</p> <p>22 I know there were other aspects</p> <p>23 of law, but I know it would have taken a</p> <p>24 commitment. I enjoyed it.</p> <p>25 Q. And if you had to estimate, how</p>	<p style="text-align: right;">Page 29</p> <p>1 Mario H. Capogrosso</p> <p>2 Because everybody who paid me a fee, and I</p> <p>3 didn't complete that case, their money got</p> <p>4 returned. Everyone got their money back.</p> <p>5 Everyone. Give me an address, and for the</p> <p>6 most part, for a long time, long time, I was</p> <p>7 writing checks to return money.</p> <p>8 I am not going to be called a</p> <p>9 thief. I am no thief. I returned money. I</p> <p>10 did that for a long time. And I don't think</p> <p>11 you have one complaint from a motorist I</p> <p>12 didn't return a fee to, not one. I returned</p> <p>13 every fee that I did not earn because I</p> <p>14 didn't complete the case.</p> <p>15 Then when that got completed --</p> <p>16 that took some time -- motorists were calling</p> <p>17 me daily, daily: Where are you? Why aren't</p> <p>18 you showing up? It was a real headache.</p> <p>19 They were calling me daily, all hours of the</p> <p>20 night, where is my money? How come you</p> <p>21 didn't return my money? I did return your</p> <p>22 money.</p> <p>23 Well, how come I didn't get it</p> <p>24 yet? Give it a couple of days in the mail.</p> <p>25 I returned every dollar. It took</p>

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1 Mario H. Capogrosso  
 2 a long time to tell my clients, I am not  
 3 practicing this type of law right now. A lot  
 4 were asking, why not? Well, that was it.  
 5 So I did that for a while. That  
 6 took a long time, a good portion of time to  
 7 clear all the cases up.  
 8 And then I put out resumes, and I  
 9 got an offer in Connecticut. I worked from  
 10 Connecticut. And then I got the offer in  
 11 Brooklyn; I worked in Brooklyn.  
 12 Q. So tell me about the position in  
 13 Connecticut. What organization was that  
 14 with?  
 15 A. It was for a law firm in  
 16 Connecticut.  
 17 Q. And what was the name of that law  
 18 firm?  
 19 A. Law Firm of Frank Peluso,  
 20 P-E-L-U-S-O.  
 21 Q. P-E-L-U-S-O.  
 22 And when did you start working  
 23 there?  
 24 A. You don't want me referring to my  
 25 resume. Let me think. 2015, this happened.

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1 Mario H. Capogrosso  
 2 I don't know. Two thousand --  
 3 Q. You can look at your resume if  
 4 you want; that is fine. Just please provide  
 5 us with a copy of it after.  
 6 A. 2016, I think. I think it was  
 7 2016, I believe.  
 8 Q. Do you know what month in 2016?  
 9 A. No. I was working as an  
 10 independent contractor. He paid me on a  
 11 1099. So everything was always paid on 1099.  
 12 So was I officially with the  
 13 firm. I reported to the firm every day. I  
 14 reported to him every day.  
 15 Was I under -- was I salaried  
 16 employed? No, I was being paid on 1099.  
 17 Q. Do you remember sort of what time  
 18 of the year it was that you started working  
 19 there?  
 20 A. No.  
 21 Q. Spring, summer, fall?  
 22 A. Had to be in -- let me think. I  
 23 think it was May. May 2016, I think.  
 24 Q. Okay. And what did your work for  
 25 the Peluso firm consist of?

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1 Mario H. Capogrosso  
 2 A. We had personal injury cases. I  
 3 had one in New York, one in Connecticut,  
 4 several in New York, several in Connecticut.  
 5 I am licensed in both states. He liked that.  
 6 I represented some criminal  
 7 defendants in criminal matters. I think we  
 8 had a couple of divorce cases. He was a  
 9 general practitioner.  
 10 Q. And how much were you paid for  
 11 that work?  
 12 A. I don't recall the exact salary.  
 13 I don't. I know he paid me on a weekly  
 14 basis. Might have been -- I don't know. Let  
 15 me think. 1100 to 1200. Thousand or 1100 a  
 16 week, something like that. 200 a day, 250 a  
 17 day, something like that. He paid me on a  
 18 weekly basis, you know, 200 to \$250 a day,  
 19 from what I recall.  
 20 Q. And so why did you stop working  
 21 for the Peluso firm?  
 22 A. He lost his malpractice  
 23 insurance. It was an issue. I am not going  
 24 to go into the details of it, but he lost his  
 25 malpractice insurance.

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1 Mario H. Capogrosso  
 2 I said Frank, I can't work for a  
 3 person that doesn't have malpractice, I  
 4 can't. I said, do you want to pay for my  
 5 malpractice insurance? I didn't feel  
 6 comfortable with that, because then it is not  
 7 under my license. I am really practicing  
 8 under my license.  
 9 I said, Frank, you gotta get  
 10 malpractice. You lost it. I said, I don't  
 11 feel comfort. I have to leave you. If you  
 12 don't have malpractice -- he had a problem or  
 13 issue; I don't want to get into it.  
 14 But he couldn't get malpractice  
 15 insurance. I said, I can't take a chance,  
 16 Frank.  
 17 Q. Can you give me a quick summary  
 18 of what the issue was?  
 19 A. I don't recall the -- you know,  
 20 you have to ask -- I don't know the issue. I  
 21 know one day he told me he had no  
 22 malpractice.  
 23 Frank, I can't work. I am sorry.  
 24 I don't know what his issue was.  
 25 I didn't get into it. I know he had

<p style="text-align: right;">Page 34</p> <p>1 Mario H. Capogrosso</p> <p>2 litigation going on, and the insurance</p> <p>3 company decided to drop him, and he couldn't</p> <p>4 get it anyplace else.</p> <p>5 Q. Did the issue have anything to do</p> <p>6 with any of the cases you were working on?</p> <p>7 A. No, no. Before I got there, he</p> <p>8 had an issue on a matter.</p> <p>9 No, not me. Not me. No, I</p> <p>10 wasn't involved in the malpractice suit.</p> <p>11 Didn't mention my name at any point. Didn't</p> <p>12 mention me. Mentioned him. And then he</p> <p>13 showed up.</p> <p>14 Q. Um --</p> <p>15 A. -- go ahead.</p> <p>16 Q. I am sorry. I didn't mean to cut</p> <p>17 you off.</p> <p>18 A. Well, before I took the job, I</p> <p>19 didn't know he had this issue. I had no</p> <p>20 idea. No idea. So I took the job.</p> <p>21 Then I am into the job, and he</p> <p>22 tells me, well, they dropped me. Well, what</p> <p>23 do you want me to do, Frank? Had nothing to</p> <p>24 do with what I did. I was never named in any</p> <p>25 grievance or anything like that. Not.</p>	<p style="text-align: right;">Page 36</p> <p>1 Mario H. Capogrosso</p> <p>2 completed.</p> <p>3 And what is an estimate of how</p> <p>4 many that you worked on at one point or</p> <p>5 another?</p> <p>6 A. He had a caseload. He had at</p> <p>7 least 75 cases in the office that I touched,</p> <p>8 that I had to get some type -- you know, that</p> <p>9 I was working, that he was throwing at me on</p> <p>10 different levels.</p> <p>11 Q. The Peluso Firm, did you do any</p> <p>12 legal work other than personal injury and</p> <p>13 criminal defense?</p> <p>14 A. We had a land dispute, a land</p> <p>15 dispute that I helped resolve. We settled</p> <p>16 that between parties, between two parties.</p> <p>17 Somebody putting up a fence, that I remember.</p> <p>18 What else? Divorce case that I</p> <p>19 helped work on. And that was it.</p> <p>20 Q. Okay. And when did you stop</p> <p>21 working for the Peluso Firm?</p> <p>22 A. When I found out that he lost the</p> <p>23 malpractice.</p> <p>24 Q. And when was that?</p> <p>25 A. That would have been -- let me</p>
<p style="text-align: right;">Page 35</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. And if you had to estimate, how</p> <p>3 many personal injury cases did you do while</p> <p>4 you were there?</p> <p>5 A. Oh, I don't know. Personal</p> <p>6 injury, maybe -- oh, I don't know. The cases</p> <p>7 were all -- he had a lot of them. The ones I</p> <p>8 actually bring to complete -- I worked on a</p> <p>9 lot of them. Do I recall?</p> <p>10 You know, he had a lot -- he had</p> <p>11 cases. But the ones I actually brought to</p> <p>12 completion while I was there, maybe three or</p> <p>13 four.</p> <p>14 Q. And cases you worked on, in</p> <p>15 total? Just estimate.</p> <p>16 A. At least 50. At least 50 cases</p> <p>17 that I had. But I only brought to completion</p> <p>18 maybe three or four, in terms of --</p> <p>19 Q. How many criminal cases would you</p> <p>20 say you worked on with the Peluso firm?</p> <p>21 A. Oh, he had cases, five or six</p> <p>22 that I completed. I said they were ongoing.</p> <p>23 They don't get completed overnight. They</p> <p>24 were ongoing.</p> <p>25 Q. Yeah. Five or six that you</p>	<p style="text-align: right;">Page 37</p> <p>1 Mario H. Capogrosso</p> <p>2 see. Probably in '17. The beginning of</p> <p>3 2017. Beginning of 2017. Yeah, 2017.</p> <p>4 Q. Okay. And what did you do after</p> <p>5 you stopped working with the Peluso Firm?</p> <p>6 A. Well, then I was looking for</p> <p>7 work. It is not easy, finding a job at my</p> <p>8 age. I am 59 years old, not easy. I started</p> <p>9 looking for work.</p> <p>10 So I was taking whatever I could.</p> <p>11 I was doing per diem work. I was sent out</p> <p>12 to -- they have this thing called Attorneys</p> <p>13 on Demand, AOD. I put my resume out there.</p> <p>14 So I would go -- for a while I was doing</p> <p>15 that, Attorneys on Demand. If they had a</p> <p>16 case, I would go out to the case and do an</p> <p>17 appearance and pay me for the appearance. I</p> <p>18 did that for a while.</p> <p>19 Q. And about how much were you paid</p> <p>20 by AOD?</p> <p>21 A. Oh, geez, it was substance level.</p> <p>22 You had to bargain with them, too. You know,</p> <p>23 there was a lot of attorneys. You know,</p> <p>24 everybody -- if you were an attorney that</p> <p>25 regularly went there, they gave it to them</p>



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1 Mario H. Capogrosso  
 2 first. It was nothing, 50, \$75 maybe.  
 3 Q. For an appearance?  
 4 A. Yeah, hundred dollars an  
 5 appearance, maybe. Hundred dollars an  
 6 appearance was max.  
 7 But you took what you could get.  
 8 I gotta eat. You took what you could get.  
 9 Q. And other than for AOD, did you  
 10 work at any other organizations at this time  
 11 before you joined the Brooklyn firm?  
 12 A. I did some per diem work for a  
 13 couple of lawyers who needed some help on  
 14 certain things. I forgot their names. I  
 15 really did forget their names.  
 16 It wasn't a long time that I  
 17 worked for them. It was per diem. They --  
 18 work who needed some extra help. I forget  
 19 their names, I do.  
 20 And then I got the opportunity to  
 21 work with -- in Brooklyn in 2018, and I took  
 22 that position.  
 23 Q. Did you -- you know, before we  
 24 get to the Brooklyn position, did you do any  
 25 cases yourself? Did you have any of your own

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1 Mario H. Capogrosso  
 2 clients?  
 3 A. No, no. All my clients got  
 4 returned to me.  
 5 My reputation in Brooklyn got  
 6 ruined. My reputation in Brooklyn got ruined  
 7 because of this.  
 8 And I didn't want to go out on my  
 9 own yet until this got resolved. I wanted  
 10 this put to an end. I wanted my reputation  
 11 reestablished. I want to tell my clients,  
 12 yeah, I won this case, and I am back to  
 13 practicing law, and I am a good lawyer. And  
 14 I wanted this case resolved before I went  
 15 back on my own on a full-time basis, because  
 16 my reputation got ruined, and I wanted this  
 17 resolved.  
 18 Q. So you said you took a job in  
 19 2018 with a firm in Brooklyn; is that  
 20 correct?  
 21 A. The law firm of Yuan Jiang.  
 22 Q. And can you spell Yuan Jiang?  
 23 A. Yuan, Y-U-A-N, Jiang, J-I-A-N-G.  
 24 Q. And how did you get connected to  
 25 the job with the Yuan Jiang firm?

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1 Mario H. Capogrosso  
 2 A. I went on Craigslist he had  
 3 posted a job offering. I sent out my resume.  
 4 He was a nice guy, Yuan. I got  
 5 nothing bad to say about him. He is a really  
 6 nice guy. I sent out my resume. He was a  
 7 nice guy, Yuan, and he gave me a job. And I  
 8 am thankful for it, very thankful.  
 9 Q. And when did you start working  
 10 with the Jiang firm?  
 11 A. Once again, he paid me on a 1099.  
 12 But I was with the firm. I was. He paid me  
 13 on a 1099. It was his firm. I started in  
 14 March. I know the exact date, actually. I  
 15 think it was March 26, 2018.  
 16 Q. And what did your duties consist  
 17 of at the Jiang firm?  
 18 A. Well, one of his lead attorneys.  
 19 It was me, him, in the office. There was  
 20 another attorney who left right away.  
 21 Another attorney came in. And then there was  
 22 about three paralegals. And his wife was  
 23 there. She ran the front desk. But I was  
 24 one of the attorneys.  
 25 Q. So what did you do for them?

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1 Mario H. Capogrosso  
 2 A. Drafted complaints, personal  
 3 injuries cases, drafted complaints, filed  
 4 complaints, answered complaints. Had  
 5 criminal cases we did that. What else?  
 6 Personal injury and criminal complaint work.  
 7 He had immigration work, which I  
 8 did a little bit of, but then he brought  
 9 somebody in who had a lot of experience in  
 10 immigration. I didn't have the experience.  
 11 I had one experience with immigration. But  
 12 he brought somebody in who was pretty good  
 13 with immigration. And that was it.  
 14 Q. And if you had to estimate, you  
 15 know, how many personal injury cases and how  
 16 many criminal cases -- let ask one at a time.  
 17 How many personal injury cases  
 18 did you work on for the Jiang firm?  
 19 A. Like I said, probably touched --  
 20 you know, he had a lot of cases coming in.  
 21 He had a lot; 45, 40 to 45. You know, I  
 22 would say about 40 cases. And criminal work,  
 23 another 15.  
 24 Q. And anything other than criminal  
 25 and personal injury?

<p style="text-align: right;">Page 42</p> <p>1 Mario H. Capogrosso</p> <p>2 A. We had a matrimonial case. I</p> <p>3 enjoyed that one. And I thought the lady was</p> <p>4 being treated very badly. It was a lady that</p> <p>5 had been treated very, very badly. I wanted</p> <p>6 a nice settlement for her, and I was very</p> <p>7 happy with that case. We had a -- I had a</p> <p>8 divorce case -- we actually had a couple of</p> <p>9 divorce cases. The one I actually settled,</p> <p>10 and I got a nice settlement on, I was very</p> <p>11 happy with.</p> <p>12 Q. And so what was your compensation</p> <p>13 while you were at the Jiang firm?</p> <p>14 A. It was 85,000 a year. 85,000.</p> <p>15 But I was paid on a weekly basis.</p> <p>16 Q. Did that include benefits?</p> <p>17 A. No benefits, no.</p> <p>18 Q. No insurance?</p> <p>19 A. No. He covered my malpractice</p> <p>20 insurance. He covered the malpractice, and I</p> <p>21 was -- it was great. But other than that,</p> <p>22 nothing, no.</p> <p>23 Q. And so how long were you at the</p> <p>24 Jiang firm for?</p> <p>25 A. Until COVID 19 hit. The last day</p>	<p style="text-align: right;">Page 44</p> <p>1 Mario H. Capogrosso</p> <p>2 situation where I am meeting clients and</p> <p>3 interacting with clients. I am fearful. I</p> <p>4 am 59 years old, I am and I have had two</p> <p>5 relatives who have died of this disease</p> <p>6 already.</p> <p>7 Q. I am very sorry.</p> <p>8 A. Thank you. I am sorry. Thank</p> <p>9 you.</p> <p>10 I am fearful of interacting with</p> <p>11 clients on a daily basis, I am. So until I</p> <p>12 get vaccinated --</p> <p>13 And I think Jiang has moved on.</p> <p>14 I did drive by the office, and I saw it was</p> <p>15 open. So at some level, he is open.</p> <p>16 But I don't know what his</p> <p>17 caseload is like, and I don't know if he is</p> <p>18 generating any revenue.</p> <p>19 Q. And you haven't reached out to</p> <p>20 him about that?</p> <p>21 A. No. I do wish him the best. He</p> <p>22 is nice guy, Yuan. He is a nice guy and nice</p> <p>23 wife. And I do wish him the best, yes.</p> <p>24 Q. So what you are doing for work</p> <p>25 currently?</p>
<p style="text-align: right;">Page 43</p> <p>1 Mario H. Capogrosso</p> <p>2 he closed the firm down, in March, what was</p> <p>3 it 2020. March 17th, put a notice on the</p> <p>4 front door said, we are closed right now. He</p> <p>5 had me working from home like a week or two,</p> <p>6 and said, this is not working, and put a</p> <p>7 notice on the door and said we are closed.</p> <p>8 It was exactly March 17, 2020.</p> <p>9 Q. So March 17th was your last day</p> <p>10 working for the Jiang firm?</p> <p>11 A. Yes.</p> <p>12 Q. And it was an amicable</p> <p>13 separation?</p> <p>14 A. Yeah. You know, he closed the</p> <p>15 door down. Thank you. Thank you very much,</p> <p>16 you know.</p> <p>17 Q. At the point when -- at the point</p> <p>18 where the COVID crisis is over, do you expect</p> <p>19 that you will go back to work for the Jiang</p> <p>20 firm?</p> <p>21 A. I think he has moved on. I</p> <p>22 haven't really spoken to him. I think he is</p> <p>23 open now, and he hasn't reached out to me.</p> <p>24 So I am sure he has moved on.</p> <p>25 I don't want to go back into a</p>	<p style="text-align: right;">Page 45</p> <p>1 Mario H. Capogrosso</p> <p>2 A. Nothing. Nothing. Nothing.</p> <p>3 Nothing.</p> <p>4 Q. You don't have any clients of</p> <p>5 your own?</p> <p>6 A. No, nope. I told you, I need</p> <p>7 this resolved. I need this resolved. One</p> <p>8 way or the other, I need this resolved.</p> <p>9 Either my name gets cleared as an attorney,</p> <p>10 my name gets cleared and my reputation gets</p> <p>11 reestablished as an attorney, or I move on in</p> <p>12 another direction, because I am -- or I move</p> <p>13 on. That is my feeling on this.</p> <p>14 Q. You said move on in another</p> <p>15 direction. What would that be?</p> <p>16 A. I don't know. I don't know. I</p> <p>17 will go out and do something to make a</p> <p>18 living.</p> <p>19 I do get made pandemic</p> <p>20 assistance. I do. I am not going to lie</p> <p>21 about that; I do get pandemic assistance. It</p> <p>22 is going to run out very shortly; it will.</p> <p>23 At that point, I don't know what I am going</p> <p>24 to do. I will have to figure it out.</p> <p>25 Q. When you say pandemic assistance,</p>



<p style="text-align: right;">Page 46</p> <p>1 Mario H. Capogrosso</p> <p>2 you mean unemployment?</p> <p>3 A. Yes.</p> <p>4 Q. And this is under the -- what is</p> <p>5 it, the Cares Act that they passed?</p> <p>6 A. Yeah. I am not sure under what</p> <p>7 act it was. But I do get PUA, pandemic</p> <p>8 unemployment assistance. But it is going to</p> <p>9 be running out. You get 39 weeks of it.</p> <p>10 Q. So you haven't done any legal or</p> <p>11 other work since leaving the Jiang firm in</p> <p>12 March; is that correct?</p> <p>13 A. Other than the work on my case,</p> <p>14 and other than work on this case, no.</p> <p>15 Wait, no. I had one client. He</p> <p>16 is a friend, not really a client. He was a</p> <p>17 friend that I talked to about a case.</p> <p>18 Other than that, no.</p> <p>19 Q. All right. Was that -- did he</p> <p>20 pay you for that legal advice?</p> <p>21 A. No. Nope. It was friend. A</p> <p>22 friend. He was going -- he wanted to try to</p> <p>23 establish visitation rights with his child.</p> <p>24 First of all, I don't think it is</p> <p>25 appropriate to represent friends or family.</p>	<p style="text-align: right;">Page 48</p> <p>1 Mario H. Capogrosso</p> <p>2 great, but I to have resort to that right</p> <p>3 now, but --</p> <p>4 Q. Would you say you make a couple</p> <p>5 of thousand a year, more or less?</p> <p>6 A. I don't know. I don't know. I</p> <p>7 really don't know.</p> <p>8 It is not a thing I do often. It</p> <p>9 is not something I can rely on, let me say</p> <p>10 that. It is not something I can rely on.</p> <p>11 I prefer being an engineer or</p> <p>12 being a lawyer. You know, I enjoyed what I</p> <p>13 was doing down in Brooklyn. I enjoyed being</p> <p>14 an engineer.</p> <p>15 I want this resolved. And once</p> <p>16 this is resolved, I will make the decision</p> <p>17 what direction to go in.</p> <p>18 Q. And you had mentioned that if you</p> <p>19 don't prevail in the case, you would be</p> <p>20 looking to do something else. Do you mean</p> <p>21 something nonlegal, or do you have an idea in</p> <p>22 mind?</p> <p>23 A. I don't know. I don't like the</p> <p>24 way the legal professional acts. I don't --</p> <p>25 I worked for an engineer a long time in my</p>
<p style="text-align: right;">Page 47</p> <p>1 Mario H. Capogrosso</p> <p>2 You get too emotionally involved. Especially</p> <p>3 me, I get too emotionally involved.</p> <p>4 He has another attorney now, and</p> <p>5 I wish him the best. I hope he gets</p> <p>6 visitation, because he is a nice guy. And</p> <p>7 that is it.</p> <p>8 Q. And do you have any other sources</p> <p>9 of income at this time?</p> <p>10 A. No. I day trade a little bit,</p> <p>11 making some money day trading. That is very</p> <p>12 chancy. I have to resort to that, but I did</p> <p>13 make some money day trading.</p> <p>14 Q. About how much money did you make</p> <p>15 day trading?</p> <p>16 A. Oh, I don't know. How much money</p> <p>17 do you lose day trading, is more like it.</p> <p>18 There is no guaranteed money day trading.</p> <p>19 Q. Are you good at it? Do you win</p> <p>20 more than you lose?</p> <p>21 A. There is no way to generate an</p> <p>22 income. I am okay, but I don't generate any</p> <p>23 significant -- first of all, you need money</p> <p>24 to day trade.</p> <p>25 I am okay. I am okay. I am not</p>	<p style="text-align: right;">Page 49</p> <p>1 Mario H. Capogrosso</p> <p>2 life, nuclear -- at a nuclear -- if I lied</p> <p>3 once, I was off the job. Once. Good-bye.</p> <p>4 If I said inappropriate -- if I</p> <p>5 didn't know anything, I kept my mouth shut.</p> <p>6 But I would never say -- I would never lie.</p> <p>7 I mean, it is not accepted.</p> <p>8 I have dealt with more lawyers</p> <p>9 and judges who have lied, who have not</p> <p>10 investigated facts. Terry Kalker, who I</p> <p>11 started out with, who told me, you will have</p> <p>12 medical insurance in three months, which was</p> <p>13 a lie, which is why I left her.</p> <p>14 Yuan didn't do it. Yuan was a</p> <p>15 straight guy.</p> <p>16 Frank Peluso, who lost his</p> <p>17 malpractice insurance.</p> <p>18 I dealt with more lawyers who</p> <p>19 have lied that I can -- it just disturbed the</p> <p>20 heck out of me. It does. It does disturb</p> <p>21 it. I am a very truthful guy.</p> <p>22 In engineering, you cannot be</p> <p>23 non-truthful. So I do want to stay in this</p> <p>24 professional -- I don't know. I don't know</p> <p>25 at this point.</p>

<p style="text-align: right;">Page 50</p> <p>1 Mario H. Capogrosso</p> <p>2 I want to clear my name; that is</p> <p>3 what I do know.</p> <p>4 Q. So that is what this case is</p> <p>5 about for you, clearing your name?</p> <p>6 A. Clearing my name and getting the</p> <p>7 money that I lost that I could have made.</p> <p>8 I am a working man. Like I told</p> <p>9 you, I am a working man.</p> <p>10 I had to return a lot of fees, a</p> <p>11 lot of fees, and I was put out of work</p> <p>12 wrongly. Wrongly I was put out of work.</p> <p>13 Q. So can you summarize for me what</p> <p>14 this case is about?</p> <p>15 A. Vindication of my name, my</p> <p>16 reputation as an attorney. To getting the</p> <p>17 money that I lost because I couldn't work as</p> <p>18 an attorney. The money I had to return.</p> <p>19 And for a Brooklyn jury to make a</p> <p>20 decision, whether there are judges and</p> <p>21 lawyers who have lied on my behalf to get rid</p> <p>22 of me, because Judge Gelbstein needed a piece</p> <p>23 of the action. Because he has lunch with</p> <p>24 ticket brokers on a weekly basis. He has</p> <p>25 other attorneys covering for him on cases</p>	<p style="text-align: right;">Page 52</p> <p>1 Mario H. Capogrosso</p> <p>2 believe a Brooklyn jury has to hear it. And</p> <p>3 people should be punished for their actions.</p> <p>4 And how I was treated, they should be</p> <p>5 punished. That is what this case is about.</p> <p>6 Q. So I mean, so some of this is</p> <p>7 items that I intend to get to a little later</p> <p>8 in the deposition.</p> <p>9 You mentioned a couple of</p> <p>10 incidents just now regarding Judge Gelbstein</p> <p>11 and some allegations that you feel are valid.</p> <p>12 You said something about a piece of the</p> <p>13 action. Can you explain that to me?</p> <p>14 A. First meeting with Judge</p> <p>15 Gelbstein, first meeting when I arrived, we</p> <p>16 had a meeting. He arrived pretty much a</p> <p>17 couple weeks or months after I arrived. He</p> <p>18 has a meeting with all the lawyers.</p> <p>19 And one of the first things I</p> <p>20 remember -- I have a very good memory. I</p> <p>21 have a very good memory -- how do I get a</p> <p>22 piece of the action? How do I get a piece of</p> <p>23 action? This is judge asking for a piece of</p> <p>24 the action.</p> <p>25 Q. So can you explain to me sort of</p>
<p style="text-align: right;">Page 51</p> <p>1 Mario H. Capogrosso</p> <p>2 down there, and he wanted me out.</p> <p>3 And judges like that shouldn't be</p> <p>4 practicing, and he shouldn't be covered for</p> <p>5 by his superiors. And complaints should not</p> <p>6 be made against a hard working attorney like</p> <p>7 myself, which is what I was.</p> <p>8 There was not one grievance from</p> <p>9 a motorist or a client against -- what he did</p> <p>10 for them, not one grievance.</p> <p>11 And my reputation has to be</p> <p>12 besmirched, and they wanted me out of there</p> <p>13 because I told the truth and reported what I</p> <p>14 saw and heard, and they wanted me out of</p> <p>15 there.</p> <p>16 And they set me up. Not only the</p> <p>17 incident with Yaakov Brody, which I think I</p> <p>18 was set up on, but with these two who --</p> <p>19 David Smart.</p> <p>20 And then repeated it -- repeated</p> <p>21 pleas for help, not only with your office,</p> <p>22 where my complaint was lost and was never</p> <p>23 responded to in my letter of March 20, 2015;</p> <p>24 it was lost.</p> <p>25 And I believe I was set up, and I</p>	<p style="text-align: right;">Page 53</p> <p>1 Mario H. Capogrosso</p> <p>2 the context in which that came up, like what</p> <p>3 was said before that?</p> <p>4 A. I don't know if he is saying it</p> <p>5 in what respect. But if you say to another</p> <p>6 attorney, how do I get a piece of the action,</p> <p>7 and you are a judge, and you think you are</p> <p>8 saying this facetiously or being funny, I</p> <p>9 don't accept it that way.</p> <p>10 I don't -- I am a young attorney</p> <p>11 down there. I am just kind of observing. It</p> <p>12 hit me the wrong way, for a judge to say, how</p> <p>13 do I get a piece of the action?</p> <p>14 He had an attorney's meeting with</p> <p>15 all the attorneys down there, all the regular</p> <p>16 attorneys he calls it. He wanted a meeting</p> <p>17 with everybody when I first arrived.</p> <p>18 Q. And when was this, what year?</p> <p>19 A. Well, I started working down in</p> <p>20 June of -- like I said, June of 2005. So it</p> <p>21 was right at that point, after that point, a</p> <p>22 couple of months afterwards, he arrived;</p> <p>23 July, August.</p> <p>24 Q. July, August 2005?</p> <p>25 A. Yes. He had the first meeting</p>

<p style="text-align: right;">Page 54</p> <p>1 Mario H. Capogrosso</p> <p>2 with all the regular attorneys down there,</p> <p>3 and I was one of them at that point.</p> <p>4 Q. And can you tell me what happened</p> <p>5 in the meeting?</p> <p>6 A. He was introducing himself as</p> <p>7 Judge Gelbstein, and he makes this remark.</p> <p>8 And I didn't know how this game</p> <p>9 was played down there. And eventually I</p> <p>10 found out what is going on.</p> <p>11 And looking around, I said, this</p> <p>12 judge might be getting a piece of the action.</p> <p>13 Was I upset about it?</p> <p>14 Absolutely.</p> <p>15 Q. So going back to the meeting, he</p> <p>16 just said out of nowhere -- was anything said</p> <p>17 before he said that? Did someone ask him a</p> <p>18 question? Or was he talking about something</p> <p>19 else?</p> <p>20 A. No, no. No, just makes the</p> <p>21 remark, how do I get a piece of the action?</p> <p>22 Q. Just out of nowhere, how do I get</p> <p>23 a piece of the action?</p> <p>24 A. Yeah.</p> <p>25 Then I see a meeting with ticket</p>	<p style="text-align: right;">Page 56</p> <p>1 Mario H. Capogrosso</p> <p>2 a lawyer.</p> <p>3 You say that, and you expect me</p> <p>4 to not accept it as truth? I don't know how</p> <p>5 he meant or said it. I know he said it. I</p> <p>6 am testifying to what I heard. I am not</p> <p>7 getting paid --</p> <p>8 Q. Did he say --</p> <p>9 A. I am not getting paid to do the</p> <p>10 Attorney General -- I shouldn't be looking</p> <p>11 into this. This is not my responsibility to</p> <p>12 be looking into, if a judge says how do I get</p> <p>13 a piece of the action. I don't think it is</p> <p>14 my responsibility. I reported what I heard.</p> <p>15 Q. Was there any other context</p> <p>16 about, you know, that indicated what he might</p> <p>17 have meant, that you recall?</p> <p>18 A. No. He said, I hope you guys all</p> <p>19 make a lot of money. I know that, something</p> <p>20 to that effect, that -- you know, I hope all</p> <p>21 you attorneys make money.</p> <p>22 He was introducing himself to the</p> <p>23 attorneys. And he ended it with how do I get</p> <p>24 a piece of the action?</p> <p>25 Q. All right. So the second item</p>
<p style="text-align: right;">Page 55</p> <p>1 Mario H. Capogrosso</p> <p>2 brokers on a weekly basis.</p> <p>3 Ticket brokers is a guy who comes</p> <p>4 down there; that is what happens. They give</p> <p>5 summons to lawyers, and these ticket brokers</p> <p>6 are in his office every week.</p> <p>7 And I asked -- walked in one day</p> <p>8 said, what is going on?</p> <p>9 Q. Let's take a step back to the</p> <p>10 initial meeting that we are talking about</p> <p>11 here, if you would.</p> <p>12 You had said you didn't think it</p> <p>13 was funny, or that he was being facetious.</p> <p>14 Was he joking when he said this?</p> <p>15 A. I don't know. I don't know.</p> <p>16 Q. Do you think he thought he was</p> <p>17 joking?</p> <p>18 A. I don't know.</p> <p>19 Listen, I came from a background,</p> <p>20 if a man said something, you held him to his</p> <p>21 word. That is the background I came from. I</p> <p>22 came from an engineering background.</p> <p>23 If a judge says something -- we</p> <p>24 are all adults here, and he is a judge. He</p> <p>25 is not a guy; you know, he is a judge. He is</p>	<p style="text-align: right;">Page 57</p> <p>1 Mario H. Capogrosso</p> <p>2 that you raised was something to do with</p> <p>3 ticket brokers. Can you explain that to me?</p> <p>4 A. Ticket brokers are guys that</p> <p>5 gather tickets from the community: Cab</p> <p>6 drivers, motorists. And they would bring the</p> <p>7 ticket down to lawyers. The lawyers would</p> <p>8 take the ticket and argue the case on behalf</p> <p>9 of the ticket broker and the client without</p> <p>10 ever meeting the client himself.</p> <p>11 And they would get a piece of the</p> <p>12 action, the ticket brokers.</p> <p>13 Q. So the ticket broker would get a</p> <p>14 cut of the legal fee?</p> <p>15 A. The ticket broker would collect</p> <p>16 the legal fee, which I thought was terrible,</p> <p>17 and they would pay the lawyer. The ticket</p> <p>18 broker would take 200 for a ticket, call</p> <p>19 himself a lawyer. I don't what he was</p> <p>20 calling himself. Then they would come down</p> <p>21 to the courthouse, and every -- all the</p> <p>22 attorneys had them. And the ticket broker</p> <p>23 would give the lawyer money, and then the</p> <p>24 lawyer would argue the case, take the case</p> <p>25 on.</p>

15 (Pages 54 - 57)

<p style="text-align: right;">Page 58</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. You said he -- at one point in</p> <p>3 that description, is there one specific</p> <p>4 ticket broker you are thinking about?</p> <p>5 A. There were a lot of ticket</p> <p>6 brokers, a lot of ticket brokers: Chinese</p> <p>7 ticket brokers, Jewish ticket brokers.</p> <p>8 I felt terrible about it. To me,</p> <p>9 I called the bar association about it. I</p> <p>10 said, is this wrong, for ticket brokers to</p> <p>11 come down and pay lawyers to do tickets for</p> <p>12 people who are not themselves?</p> <p>13 The bar association couldn't give</p> <p>14 me a straight answer. So, you know, for the</p> <p>15 longest time -- first of all, they were</p> <p>16 taking money out of the attorney's pocket,</p> <p>17 which I didn't like.</p> <p>18 And I did call the bar</p> <p>19 association, and they didn't give me a</p> <p>20 straight answer, or they didn't understand</p> <p>21 it. So that was it.</p> <p>22 Q. And you indicated that you found</p> <p>23 something objectionable about the way Judge</p> <p>24 Gelbstein handled ticket brokers. Can you</p> <p>25 explain that?</p>	<p style="text-align: right;">Page 60</p> <p>1 Mario H. Capogrosso</p> <p>2 were saying something to them, and I don't</p> <p>3 know what they were saying.</p> <p>4 But to me, there was an</p> <p>5 appearance of impropriety. I didn't want to</p> <p>6 get involved with it. I felt it was</p> <p>7 abhorrent that ticket brokers would be in his</p> <p>8 office, abhorrent.</p> <p>9 Q. Is it correct to say there is one</p> <p>10 particular ticket broker who was in his</p> <p>11 office, the one who he said was a friend of</p> <p>12 his wife's?</p> <p>13 A. I think there was a father and a</p> <p>14 son. They were related on some basis. They</p> <p>15 were related. I don't know any names.</p> <p>16 Q. Do you know anything else that</p> <p>17 would identify them, of description or other,</p> <p>18 you know, information?</p> <p>19 A. No, no. They had the Jewish --</p> <p>20 one man has the traditional Jewish, I don't</p> <p>21 know, garb that Jewish people wear. Another</p> <p>22 person didn't.</p> <p>23 But I know what they did. They</p> <p>24 weren't lawyers. I knew the lawyers down</p> <p>25 there. They were not lawyers. And I knew</p>
<p style="text-align: right;">Page 59</p> <p>1 Mario H. Capogrosso</p> <p>2 A. They were in his office. They</p> <p>3 were in his office on a weekly basis.</p> <p>4 And I walked into -- I knocked on</p> <p>5 his door one day, and I said, do you know who</p> <p>6 you are having lunch with here? He says, he</p> <p>7 is a friend of my wife. I have dinner with</p> <p>8 him, but I don't know what he does for</p> <p>9 living.</p> <p>10 Q. Who is this, that we are talking</p> <p>11 about?</p> <p>12 A. This is one of the Jewish ticket</p> <p>13 brokers.</p> <p>14 Q. Do you know his name, sir?</p> <p>15 A. No. I didn't want to know his</p> <p>16 name.</p> <p>17 I didn't want to deal with these</p> <p>18 guys; I really didn't. I really didn't want</p> <p>19 to deal with them. I thought what they did</p> <p>20 was wrong. They were taking money out of the</p> <p>21 attorney's pocket, number one. Number two, I</p> <p>22 don't know what kind of representations they</p> <p>23 were making. They were making</p> <p>24 representations in order to get these monies</p> <p>25 from these clients and these motorists. They</p>	<p style="text-align: right;">Page 61</p> <p>1 Mario H. Capogrosso</p> <p>2 what they did.</p> <p>3 Q. And so Judge Gelbstein was having</p> <p>4 lunch with them?</p> <p>5 A. They were in his office on a</p> <p>6 weekly basis. In his office on a weekly</p> <p>7 basis.</p> <p>8 Now, I do --</p> <p>9 Q. Um -- I am sorry, continue.</p> <p>10 A. Well, there was another lady,</p> <p>11 Tanya Rabinovich who I mentioned, who was</p> <p>12 down there, actually in the courtroom,</p> <p>13 calling herself a lawyer.</p> <p>14 But clients, motorists, would</p> <p>15 approach me and say, where is Tanya, the</p> <p>16 lawyer? I said, she is not a lawyer. She is</p> <p>17 not a lawyer. Where is Tanya the lawyer?</p> <p>18 Where is Tanya the lawyer? She is not a</p> <p>19 lawyer.</p> <p>20 She had an office right near the</p> <p>21 DMV at one point, right near the DMV</p> <p>22 upstairs. Where is Tanya, the lawyer? I</p> <p>23 said, she is not a lawyer.</p> <p>24 I called the district attorney</p> <p>25 one day. I said, you have a woman down here</p>



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1 Mario H. Capogrosso  
 2 calling herself a lawyer. Does anybody care?  
 3 She is making representations that she has a  
 4 legal degree, and she is not a lawyer.  
 5 You know, I went to law school at  
 6 night for four years while I worked during  
 7 the day, a full day as an engineer at a  
 8 nuclear power plant. I worked at night. I  
 9 went a hundred grand in debt to go to this  
 10 law school.  
 11 And I paid off every dollar.  
 12 Every dollar got paid off. I didn't renege  
 13 on any loans that I took. Every dollar got  
 14 paid off. I passed two bar exams.  
 15 And she gets to call herself a  
 16 lawyer in his courtroom, so I called the  
 17 district attorney concerning her. There is  
 18 an investigation made.  
 19 Next thing I know, she is not  
 20 there any more. And Gelbstein -- Judge  
 21 Gelbstein approaches me and says, who are  
 22 you, Don Quixote? I said, now I know this  
 23 guy is on the take. Now I know it. He wants  
 24 everybody to be quiet. He wants everything  
 25 to go on as is.

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1 Mario H. Capogrosso  
 2 It is in my opinion, and I am  
 3 entitled to my opinion. Now I know this guy  
 4 is on the take.  
 5 Q. And so let's take a step back.  
 6 This conversation where he said,  
 7 who are you, Don Quixote, when did that  
 8 happen?  
 9 A. That is after I called the  
 10 district attorney on this woman, then I don't  
 11 see her anymore.  
 12 Q. Do you know when that was?  
 13 A. You know, when I first got there,  
 14 I didn't understand the game, who all the  
 15 players were. But after I started practicing  
 16 down there, it is when the clerks started not  
 17 to like me.  
 18 They liked Tanya. And I have an  
 19 understanding why they might have like her.  
 20 She was probably paying them off. She was  
 21 going to the counter and doing business with  
 22 them on a daily basis. She was going up to  
 23 the counter, and she would put in and ask for  
 24 tickets. She was given -- the clerks were  
 25 giving her tickets, summons for the clients

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1 Mario H. Capogrosso  
 2 she had.  
 3 I said, how does this woman, who  
 4 is not a lawyer, and clerks are giving her  
 5 the summons that she is asking for, and she  
 6 is not a lawyer? How is she doing this?  
 7 And she would be rescheduling  
 8 these cases for these people. So obviously  
 9 she was giving these clerks something, for  
 10 them to do this.  
 11 I said, this is wrong. I said,  
 12 this is wrong. And the clerks were doing her  
 13 business.  
 14 I called the district attorney,  
 15 yeah, I did. I made that statement.  
 16 Next thing I know, the clerks  
 17 don't like me. The clerks don't like me at  
 18 this point.  
 19 Q. When was this? Do you remember  
 20 what year?  
 21 A. If I can refer to my document, I  
 22 can probably look at. It is in one of my  
 23 exhibits.  
 24 One of the clerks said I pushed  
 25 her. She actually came up to me -- it is in

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1 Mario H. Capogrosso  
 2 one of the documents, one of the exhibits I  
 3 gave you. You can look it up. In my  
 4 affirmation in response, one of them said I  
 5 assaulted them.  
 6 There is no assault. I called  
 7 the district attorney. She comes over,  
 8 yelling and screaming, did you call the  
 9 district attorney? I could have denied it.  
 10 I could have denied that I didn't call.  
 11 I didn't deny it. I told her the  
 12 truth: Yeah, I called. You are calling  
 13 yourself a lawyer. You are doing business  
 14 down here as a lawyer.  
 15 She starts yelling and screaming  
 16 at me. I tried to get away from her, and I  
 17 walk away from her. We might have brushed  
 18 shoulders. I don't know. I didn't do  
 19 anything to her, but she is right on top of  
 20 me.  
 21 Now these clerks didn't like me  
 22 for that. I have a feeling for that, I  
 23 really do, that I called the district  
 24 attorney.  
 25 Judge Gelbstein didn't like it.

<p style="text-align: right;">Page 66</p> <p>1 Mario H. Capogrosso</p> <p>2 Clerks probably didn't like it. Go ahead.</p> <p>3 Q. So, Mr. Capogrosso, you said you</p> <p>4 called the district attorney, and then there</p> <p>5 was an investigation, and then she wasn't</p> <p>6 there any more; is that correct?</p> <p>7 A. I don't know if there was an</p> <p>8 investigation. Nobody ever reported anything</p> <p>9 to me.</p> <p>10 To me, I did my job. I saw --</p> <p>11 Q. So you called the district</p> <p>12 attorney, and she was not there anymore?</p> <p>13 A. Yes.</p> <p>14 Q. Do you know -- do you know if she</p> <p>15 was kicked out?</p> <p>16 A. All I know is Gelbstein</p> <p>17 approaches me and says, who are you, Don</p> <p>18 Quixote?</p> <p>19 I have no idea. Nobody gave me a</p> <p>20 report as to what happened. I told the</p> <p>21 district attorney what I saw; I told them.</p> <p>22 And after that, I don't see her anymore.</p> <p>23 And that is -- if you look at the</p> <p>24 exhibits, the date of that alleged incident</p> <p>25 between me and her is the date I made the</p>	<p style="text-align: right;">Page 68</p> <p>1 Mario H. Capogrosso</p> <p>2 stopped, him seeing those two Jewish ticket</p> <p>3 brokers?</p> <p>4 A. No. Up until the date May</p> <p>5 11th -- up until May 11th, I still saw them</p> <p>6 down there. Up to May 11th, they were still</p> <p>7 there.</p> <p>8 Q. Okay.</p> <p>9 A. Let me tell you the worst thing,</p> <p>10 because I gotta get this one out. The worst</p> <p>11 thing that really got me about this is when I</p> <p>12 saw Gelbstein in the GE on a side bar, on a</p> <p>13 side bar with Judge Bohmstein, ALJ Bohmstein,</p> <p>14 pleading motorists guilty and rescheduling</p> <p>15 cases. Then I just threw my hands up. I</p> <p>16 said, this is terrible.</p> <p>17 Q. What is it that you saw? Can you</p> <p>18 describe it to me in a little more detail?</p> <p>19 A. Judge Gelbstein, I had some</p> <p>20 tickets GE, general -- waiting to be heard.</p> <p>21 I am sitting there. He walks in with about</p> <p>22 10 or 15, 20 tickets in the thing, before ALJ</p> <p>23 Bohmstein sitting there.</p> <p>24 I am entering a guilty plea on</p> <p>25 this ticket, this ticket, this ticket, five</p>
<p style="text-align: right;">Page 67</p> <p>1 Mario H. Capogrosso</p> <p>2 call, I believe, right around that date.</p> <p>3 Q. And sitting here today, do you</p> <p>4 remember what year that was?</p> <p>5 A. Well, I am not going to look at</p> <p>6 my exhibits; so no, I don't recall.</p> <p>7 Q. Was it before that first lawsuit</p> <p>8 that you had in 2012?</p> <p>9 A. Like I said, I don't remember.</p> <p>10 And I am not going to look at the</p> <p>11 exhibit. You told me not to.</p> <p>12 Q. All right. Was it before 2015?</p> <p>13 A. Absolutely, yes.</p> <p>14 Q. Okay. And similarly, the time</p> <p>15 when Judge Gelbstein was having the two</p> <p>16 Jewish ticket brokers, the father and son, in</p> <p>17 his office, do you remember when that was,</p> <p>18 what year?</p> <p>19 A. Oh, I sure do. That is the first</p> <p>20 day I got there.</p> <p>21 And I understood who the players</p> <p>22 were, who were the brokers, who these ticket</p> <p>23 brokers were and what they did. I saw them</p> <p>24 right from day one.</p> <p>25 Q. And was there a time that it</p>	<p style="text-align: right;">Page 69</p> <p>1 Mario H. Capogrosso</p> <p>2 or six or seven. What the heck is going on</p> <p>3 down here? This is a judge who has access to</p> <p>4 every, every ticket in the system in his</p> <p>5 office. On a computer system, he has access.</p> <p>6 He has access to all of them.</p> <p>7 If he needs to reschedule a case</p> <p>8 because something -- he can do it in office.</p> <p>9 He is doing GE before another judge, not on</p> <p>10 the record. There was no appearance made.</p> <p>11 I said -- I throw my hands up. I</p> <p>12 can't work in this type -- I can't work here.</p> <p>13 This is terrible.</p> <p>14 Q. I am sorry, I may not understand</p> <p>15 this. But if Judge Gelbstein is talking with</p> <p>16 this other judge, you said Judge Bohmstein?</p> <p>17 A. Yeah, on a side bar.</p> <p>18 Q. How do you spell Bohmstein?</p> <p>19 A. B-O-H-M-S-T-E-I-N,</p> <p>20 B-O-H-M-S-T-E-I-N.</p> <p>21 THE COURT REPORTER: Counselor?</p> <p>22 Q. So?</p> <p>23 THE COURT REPORTER: Counselor?</p> <p>24 Counselor?</p> <p>25 THE WITNESS: Yes.</p>

18 (Pages 66 - 69)



<p style="text-align: right;">Page 70</p> <p>1 Mario H. Capogrosso</p> <p>2 THE COURT REPORTER: I need to go</p> <p>3 off the record.</p> <p>4 MR. THOMPSON: Yes.</p> <p>5 THE COURT REPORTER: You need to</p> <p>6 go off the record for two minutes.</p> <p>7 THE VIDEOGRAPHER: The time is</p> <p>8 10:48 a.m. we are off the record.</p> <p>9 (Discussion off the record).</p> <p>10 THE VIDEOGRAPHER: The time is</p> <p>11 10:50. We are on the record.</p> <p>12 Q. So, Mr. Capogrosso, we were</p> <p>13 discussing an instance when you saw Judge</p> <p>14 Gelbstein in the GE room rescheduling cases.</p> <p>15 And I may not understand it.</p> <p>16 But what is wrong with him</p> <p>17 rescheduling cases, as a judge?</p> <p>18 A. If you are carrying a caseload --</p> <p>19 this is what I am thinking. If you are</p> <p>20 carrying a caseload, let me tell you how the</p> <p>21 game is played. Attorneys take tickets in,</p> <p>22 and they would push the tickets out,</p> <p>23 reschedule three, four, five, six times,</p> <p>24 stretch the money, they would call. They</p> <p>25 would stretch the money. You get \$200 a</p>	<p style="text-align: right;">Page 72</p> <p>1 Mario H. Capogrosso</p> <p>2 still don't understand what you contend is</p> <p>3 wrong about what Judge Gelbstein did.</p> <p>4 Because if he is a judge, and he is talking</p> <p>5 to another judge to set up the docket, and</p> <p>6 when cases will be heard, is there anything</p> <p>7 wrong with that?</p> <p>8 A. I am told -- I don't know. I</p> <p>9 don't know. I am -- I reported what I saw</p> <p>10 and what I heard. I don't know. I reported</p> <p>11 what -- if you reschedule things on a sidebar</p> <p>12 without putting in an appearance, and you are</p> <p>13 entering guilty pleas without putting in an</p> <p>14 authorization, to me, there is something</p> <p>15 wrong.</p> <p>16 I don't know. Maybe he had a</p> <p>17 legitimate purpose. I reported what I saw</p> <p>18 and what I heard.</p> <p>19 I know I had a conflict with</p> <p>20 another attorney over a ticket that we were</p> <p>21 put in a room. We bought, put the same one</p> <p>22 in I want to speak with him about.</p> <p>23 He says, I am covering the case</p> <p>24 for Gelbstein.</p> <p>25 Q. So let's put a pin on that one</p>
<p style="text-align: right;">Page 71</p> <p>1 Mario H. Capogrosso</p> <p>2 ticket, you stretch it out for two years, and</p> <p>3 plead the guy guilty, and you give the guy no</p> <p>4 points. You give the motorist no points.</p> <p>5 It is called stretching the</p> <p>6 money, which is what the attorneys were</p> <p>7 doing. A lot of attorneys would go to the</p> <p>8 courtroom and enter a guilty plea, which is</p> <p>9 one way of handling a ticket.</p> <p>10 If you stretch it out 18 months,</p> <p>11 the points don't show up on your license. If</p> <p>12 you reschedule a whole bunch of cases, and</p> <p>13 you push them out 18 months, and then you</p> <p>14 enter a guilty plea for the guy, and he</p> <p>15 doesn't get suspended, and they waive the</p> <p>16 STV, and they give them a minimum fine, you</p> <p>17 know, the motorist goes home happy.</p> <p>18 My license is still good. I am</p> <p>19 happy I got a minimum fine. I am not</p> <p>20 suspended. That is one way you can play the</p> <p>21 game.</p> <p>22 Did I play it like that? No.</p> <p>23 They hired me to fight a ticket, I fought a</p> <p>24 ticket; so my clients liked me.</p> <p>25 Q. So, Mr. Capogrosso, I guess I</p>	<p style="text-align: right;">Page 73</p> <p>1 Mario H. Capogrosso</p> <p>2 and come to that in just a second.</p> <p>3 This instance when you saw Judge</p> <p>4 Gelbstein rescheduling tickets with judge</p> <p>5 Bohmstein --</p> <p>6 A. And entering guilty pleas.</p> <p>7 Q. -- and entering guilty pleas.</p> <p>8 First of all, you said you</p> <p>9 reported that.</p> <p>10 Who did you report that to?</p> <p>11 A. Who did I report it to? No, at</p> <p>12 that point I said, I can't work here anymore.</p> <p>13 At that point after I was removed, after I</p> <p>14 was removed, there is nobody to report it to.</p> <p>15 Nobody is listening.</p> <p>16 I write to your office. Your</p> <p>17 office doesn't respond to me in my letter of</p> <p>18 complaint. I wrote a letter to Prickett</p> <p>19 Morgan, March 20th. I got no response.</p> <p>20 I have written to the grievance</p> <p>21 committee. I explained this in the grievance</p> <p>22 committee. They don't care. They said they</p> <p>23 have no authority over this.</p> <p>24 I have wrote to the Inspector</p> <p>25 General's office. They told me it is an</p>

<p style="text-align: right;">Page 74</p> <p>1 Mario H. Capogrosso</p> <p>2 internal review. I wrote to the Commission</p> <p>3 of Judicial Conduct. They have no control</p> <p>4 over what goes on at the TVB, because it is</p> <p>5 not a recognized tribunal.</p> <p>6 I forgot who else I wrote to, but</p> <p>7 I wrote and I explained everything that I</p> <p>8 saw. And they all told me they have no</p> <p>9 jurisdiction over this tribunal and what goes</p> <p>10 on.</p> <p>11 Q. And so my next question is, this</p> <p>12 time when you saw Judge Gelbstein speaking</p> <p>13 with Judge Bohmstein and doing this with the</p> <p>14 cases, when was that, approximately?</p> <p>15 A. That was right before this</p> <p>16 happened that I got removed. It was maybe a</p> <p>17 month or less before I got removed, May 11,</p> <p>18 2015.</p> <p>19 Q. So April or May of 2015?</p> <p>20 A. Yeah. The first time I ever --</p> <p>21 Q. Do you have any reason to believe</p> <p>22 that the adjournments and guilty pleas that</p> <p>23 you saw were not valid, were not correct?</p> <p>24 A. As an attorney, if you to tell me</p> <p>25 how do I get a piece of the action, if you</p>	<p style="text-align: right;">Page 76</p> <p>1 Mario H. Capogrosso</p> <p>2 those adjournments and guilty pleas were</p> <p>3 correct?</p> <p>4 A. No, I said I have no idea. I</p> <p>5 reported what I saw and heard. That is it.</p> <p>6 I have no idea what he was doing.</p> <p>7 I don't know. I never questioned him about</p> <p>8 it. At that point, I just threw my hands up.</p> <p>9 I don't know what he was doing. I reported</p> <p>10 truthfully what I heard and what I saw. That</p> <p>11 is not my job to make this investigation. It</p> <p>12 is not my job.</p> <p>13 Q. So lastly you mentioned one other</p> <p>14 incident, when you say someone said that he</p> <p>15 was covering a case for Judge Gelbstein.</p> <p>16 Can you explain to me what you</p> <p>17 are discussing there?</p> <p>18 A. We both put a ticket in.</p> <p>19 Sometimes clients they hired two lawyers</p> <p>20 because they lose track of something. They</p> <p>21 got two lawyers on the same summons. We both</p> <p>22 put the ticket into GE, into the courtroom.</p> <p>23 I go in the courtroom, the clerk</p> <p>24 or the court -- and it has happened several</p> <p>25 times. There is a lot of clients, a lot of</p>
<p style="text-align: right;">Page 75</p> <p>1 Mario H. Capogrosso</p> <p>2 have ticket brokers in your office, and you</p> <p>3 tell me you don't know what they do for a</p> <p>4 living, but they are friends of your wife,</p> <p>5 and you don't know what they do for a living;</p> <p>6 when you have a discrepancy with another</p> <p>7 lawyer, and he tells me I am covering the</p> <p>8 case for Gelbstein, and then you see this</p> <p>9 happening in the GE, and then I make</p> <p>10 complaints and complaints and complaints</p> <p>11 against concerning the action of Defendant</p> <p>12 Smart, right, and he laughs and giggles and</p> <p>13 tells me a spade is a spade, and he doesn't</p> <p>14 respond to any of the complaints, right.</p> <p>15 The harassment continues. The</p> <p>16 man wants me out. The man wants me out. He</p> <p>17 doesn't me to see what he is doing. He wants</p> <p>18 me out, and he got me there.</p> <p>19 Q. I appreciate that,</p> <p>20 Mr. Capogrosso, but the question was a little</p> <p>21 bit more narrow than that.</p> <p>22 These specific adjournments and</p> <p>23 these specific guilty pleas in this</p> <p>24 conversation between Judge Gelbstein and</p> <p>25 Judge Bohmstein, do you know whether or not</p>	<p style="text-align: right;">Page 77</p> <p>1 Mario H. Capogrosso</p> <p>2 motorists. Sometimes they hire the same</p> <p>3 lawyer. There are lawyers on both -- there</p> <p>4 is two lawyers on the same ticket, for</p> <p>5 whatever reason.</p> <p>6 So I will go up to this other</p> <p>7 attorney. I said, what is going on? And he</p> <p>8 tells me, I am covering the case for</p> <p>9 Gelbstein. I said, do what you gotta do.</p> <p>10 And I pulled off my ticket, and I</p> <p>11 said, you want to cover it, go ahead.</p> <p>12 And then I am thinking back to</p> <p>13 myself, what is going on here? You are</p> <p>14 covering the case for Gelbstein. Who am I</p> <p>15 going to report it to? I am going to report</p> <p>16 it to Judge Gelbstein. Who is listening to</p> <p>17 these complaints?</p> <p>18 I reported it to Bushra Vahdat.</p> <p>19 Who wants to listen to these complaints, so I</p> <p>20 let it go.</p> <p>21 Q. So, Mr. Capogrosso, first of all,</p> <p>22 who is the attorney who said he was covering</p> <p>23 the case for Judge Gelbstein?</p> <p>24 A. Eugene Gerbasi.</p> <p>25 Q. Eugene Gerbasi.</p>

<p style="text-align: right;">Page 78</p> <p>1 Mario H. Capogrosso</p> <p>2 Can you spell Gerbasi for me?</p> <p>3 A. I believe G-E-R-B-A-S-I.</p> <p>4 Q. And so when he said was covering</p> <p>5 the case, what did that mean?</p> <p>6 A. That means he was going to argue</p> <p>7 the case. In my opinion, that is what it</p> <p>8 meant.</p> <p>9 Q. Okay. So let me ask, what's --</p> <p>10 what's wrong with him arguing a case?</p> <p>11 A. You are arguing a case for a</p> <p>12 judge.</p> <p>13 I don't know. I don't know.</p> <p>14 Maybe there is nothing wrong with it. I</p> <p>15 reported what I heard. I don't know. You do</p> <p>16 your investigation. That is not my job. I</p> <p>17 reported truthfully what I heard, what I saw.</p> <p>18 I don't know.</p> <p>19 Q. So he said he was covering -- he</p> <p>20 said he was covering a case.</p> <p>21 You know, was Judge Gelbstein the</p> <p>22 person with the ticket, or I guess what is</p> <p>23 your concern about?</p> <p>24 A. I don't know. He said he is</p> <p>25 covering a case for Gelbstein.</p>	<p style="text-align: right;">Page 80</p> <p>1 Mario H. Capogrosso</p> <p>2 Mr. Capogrosso.</p> <p>3 Why did you decide to sue in this</p> <p>4 case?</p> <p>5 A. I want to go back to practicing</p> <p>6 law at New York TVB. I want to clear my</p> <p>7 name. I want to clear my name.</p> <p>8 I was removed from the Brooklyn</p> <p>9 TVB on May 11, 2015. Nobody looked at this</p> <p>10 videotape, which we established that</p> <p>11 yesterday. Nobody looked at it.</p> <p>12 Did an Danielle Calvo, somebody</p> <p>13 told her that there was an incident between</p> <p>14 me and Smart. Danielle Calvo makes a call to</p> <p>15 Judge Gelbstein. Gelbstein calls Traschen,</p> <p>16 and Traschen tells Calvo to have me removed.</p> <p>17 Nobody looks at the videotape.</p> <p>18 The videotape was never kept. It is lost.</p> <p>19 There is affidavit and affidavit and</p> <p>20 accusations made against me and my name and</p> <p>21 my reputation as a lawyer that I was never</p> <p>22 served with so I could respond.</p> <p>23 I asked yesterday, how come you</p> <p>24 didn't file an affidavit? I never received a</p> <p>25 complaint. I can't respond to a complaint if</p>
<p style="text-align: right;">Page 79</p> <p>1 Mario H. Capogrosso</p> <p>2 If you see ticket brokers -- if I</p> <p>3 see ticket brokers in your office, and you</p> <p>4 tell me you don't know what they are doing</p> <p>5 for a living, I see you pleading guys in the</p> <p>6 GE and rescheduling cases, and if another</p> <p>7 attorney tells me he is covering a case for</p> <p>8 you, my opinion -- and only my opinion, which</p> <p>9 I am entitled to -- you got a caseload. You</p> <p>10 got a caseload, and you are trying to get a</p> <p>11 piece of the action. That is my opinion.</p> <p>12 Q. When you say you have got a</p> <p>13 caseload, you think he is practicing law as</p> <p>14 an attorney at the TVB?</p> <p>15 A. As well as being a judge. Yeah,</p> <p>16 that is my opinion. That is my opinion. I</p> <p>17 don't know if it is true or not. That is not</p> <p>18 my job. That is my opinion. I don't know if</p> <p>19 it is true. I don't know if that is true. I</p> <p>20 reported what I saw and what I heard.</p> <p>21 Q. But you never saw Judge Gelbstein</p> <p>22 arguing a case at the TVB or representing a</p> <p>23 client at THE TVB; is that correct?</p> <p>24 A. No, I never saw him do that. No.</p> <p>25 Q. Let's take a step back,</p>	<p style="text-align: right;">Page 81</p> <p>1 Mario H. Capogrosso</p> <p>2 I never received it.</p> <p>3 I wrote to -- and nobody is --</p> <p>4 and I wrote to Traschen. I wrote to Bushra</p> <p>5 Vahdat. And I wrote to Judge Gelbstein, and</p> <p>6 I wrote to your office.</p> <p>7 And when I write to your office</p> <p>8 concerning my concern -- detailing my</p> <p>9 concerns what is going on, I get no response</p> <p>10 from any of these offices.</p> <p>11 And then I have some security</p> <p>12 guard approach me on the morning of May 11th,</p> <p>13 instigates an altercation, and I am removed</p> <p>14 within five minutes.</p> <p>15 I want to clear my name. I think</p> <p>16 I was set up. I think Judge Gelbstein and</p> <p>17 all these other parties wanted me out because</p> <p>18 I wasn't playing the game.</p> <p>19 And I want to clear my name. I</p> <p>20 want to get back to work. I want the money</p> <p>21 that I lost. And I think whoever did this,</p> <p>22 especially if they are judges, should get</p> <p>23 punished. They should not be a judges, and</p> <p>24 they should not be represented --</p> <p>25 Q. When you say they wanted you out</p>

21 (Pages 78 - 81)

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1 Mario H. Capogrosso  
 2 because you weren't playing the game, what do  
 3 you mean?  
 4 A. I was not playing off the clerks.  
 5 I was not paying off the clerks. I was not  
 6 dealing with ticket brokers. I was not  
 7 giving the clerks part of this court money  
 8 and cash for the holidays.  
 9 The other attorneys were.  
 10 Several attorneys walked up to me, how much  
 11 you giving the clerks for Christmas? I said,  
 12 I am giving them nothing. I am giving them  
 13 nothing.  
 14 I gotta pay them. They have a  
 15 job to do. They get paid. I am not giving  
 16 them any more money.  
 17 Attorney said, why don't you buy  
 18 them breakfast? I am not going to buy them  
 19 breakfast in the morning. I am not doing  
 20 that. There is an appearance of impropriety.  
 21 I refuse to participate.  
 22 There was an appearance. I don't  
 23 know if you are allowed to do it or not. I  
 24 don't know if you are allowed to give the  
 25 clerks money. I don't know if you are

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1 Mario H. Capogrosso  
 2 allowed to give them breakfast, give them  
 3 parties. There was appearance of  
 4 impropriety.  
 5 I chose not to participate. I  
 6 chose not to.  
 7 Q. And you think that everyone  
 8 wanted to get rid of you because you weren't  
 9 paying money for the clerks?  
 10 A. I don't know why they wanted to  
 11 get rid -- they didn't like me. They didn't  
 12 like my approach, my style, whatever. They  
 13 didn't like me, I knew that.  
 14 My clients loved me. My clients  
 15 loved me. You don't have one grievance from  
 16 or complaint from a client over ten years of  
 17 service in this tribunal. Ten years I was  
 18 down there, from motorist or a client. Other  
 19 than maybe a fee dispute or something, that  
 20 is it. Other than this one to Mr. Perez, I  
 21 never got -- I can't explain what happened  
 22 there. Not one complaint --  
 23 Q. We will discuss Mr. Perez in a  
 24 bit later today.  
 25 Taking a step back, you mentioned

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1 Mario H. Capogrosso  
 2 ticket brokers.  
 3 Let me ask you, the practice of  
 4 ticket brokers, people who bring cases in in  
 5 exchange for a cut of the attorney's fees, is  
 6 that legal or is that illegal?  
 7 A. I have no idea. I don't know.  
 8 I think if you are calling  
 9 yourself a lawyer, and you are taking a the  
 10 fee and representing that you are an  
 11 attorney, and you take that fee, I think that  
 12 is terrible. I think that is wrong.  
 13 I think if you go into the ticket  
 14 counter, like Tanya Rabinovich was doing, and  
 15 the clerks were giving a whole of bunch  
 16 summons for the day and rescheduling cases  
 17 for her, and she is not a lawyer, I think  
 18 that is practicing law.  
 19 I think that is wrong. I think  
 20 that is wrong. Absolutely wrong. Because  
 21 now you are acting -- now you are taking an  
 22 authority over that summons.  
 23 I don't know. And you are --  
 24 and maybe you are even pleading guilty.  
 25 Maybe she was pleading them guilty, too. You

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1 Mario H. Capogrosso  
 2 can do that at the counter.  
 3 Q. But, Mr. Capogrosso, assuming  
 4 that the ticket broker isn't holding  
 5 themselves out to be anything but a ticket  
 6 broker, is there anything illegal or  
 7 unethical about the practice?  
 8 A. I don't know. I don't know. If  
 9 you are calling yourself a ticket broker, I  
 10 don't know. I don't know.  
 11 I think if you make the  
 12 representation that you are lawyer, that is  
 13 wrong, or you are making --  
 14 Q. And --  
 15 A. I think that is wrong. I think  
 16 if you come down to the DMV with a ticket,  
 17 and the attorney takes the ticket and doesn't  
 18 talk to the client directly, directly, I  
 19 think that is wrong. Because then you don't  
 20 know what the client expectation is under.  
 21 The attorney is not talking to  
 22 the client himself, he is talking to an  
 23 intermediary, and I think that is wrong. You  
 24 should have some type of interaction with the  
 25 lawyer directly.



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1 Mario H. Capogrosso  
 2 I don't know if it is right or  
 3 wrong. You are the Attorney General; that is  
 4 your decision.  
 5 I am telling you what I saw and  
 6 what I heard. I am telling you that I didn't  
 7 feel comfortable dealing with these people.  
 8 I did not.  
 9 Q. Mr. Capogrosso, sitting here  
 10 today, you are not aware of any statute or  
 11 regulation or source of authority that says  
 12 that ticket brokers are not legal or  
 13 permissible; is that correct?  
 14 A. I think you can't make a  
 15 representation that you are a lawyer when you  
 16 are not a lawyer and collect a fee.  
 17 Q. But --  
 18 A. I think that is wrong.  
 19 Q. Leaving aside if they don't  
 20 represent that they are a lawyer, you are not  
 21 aware of any statute prohibiting ticket  
 22 brokers, correct?  
 23 A. I don't know.  
 24 Q. Statute or --  
 25 A. I didn't think its ever been

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1 Mario H. Capogrosso  
 2 broached, this question.  
 3 Q. Okay.  
 4 A. I don't think the question has  
 5 ever been looked at.  
 6 Q. Mr. Capogrosso, did there come a  
 7 time when ticket brokers were banned from the  
 8 TVB?  
 9 A. I saw ticket brokers there up  
 10 until the day I left, so obviously they were  
 11 not banned. I saw them up till the day -- I  
 12 know some paralegals were banned because they  
 13 were taking money, stealing money, but I  
 14 didn't see ticket brokers banned.  
 15 Q. So your testimony is no, there  
 16 was never a ban on ticket brokers?  
 17 A. Not that I was aware of. I  
 18 always saw them down there, even up to the  
 19 day I was asked to leave.  
 20 Q. All right. So a couple more  
 21 questions about bringing the case.  
 22 You were expelled from practice  
 23 in 2015. You brought this case in 2018.  
 24 Why did you wait so long to bring  
 25 the case?

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1 Mario H. Capogrosso  
 2 A. I wanted to see if they had  
 3 anything against me. Seriously. I gave them  
 4 three years to bring their case against me.  
 5 They wanted to sweep my complaints and  
 6 everything I had under the rug. If there was  
 7 a complaint against me or my office, you  
 8 could have aggrieved me.  
 9 I was waiting for a grievance. I  
 10 was waiting for them to sue me. If I had  
 11 assaulted this security guard, I could have  
 12 been sued for assault. They brought nothing  
 13 against me for three years. I waited three  
 14 years to see if they had anything against me.  
 15 They had nothing against me.  
 16 Nothing. Not an assault, not a criminal  
 17 charge, not a grievance to the grievance  
 18 committee, nothing. They had nothing to hold  
 19 their hat on, other than they removed me  
 20 improperly. And I think they set me up that  
 21 morning. I waited three years because I  
 22 wanted to see if they had anything against  
 23 me, and they didn't.  
 24 Q. Is it possible they were just  
 25 satisfied that you were no longer at TVB?

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1 Mario H. Capogrosso  
 2 A. I know they wanted me out. They  
 3 wanted me out, and they got me out, and they  
 4 wanted -- and they wanted to ignore any  
 5 complaints or any follow-up.  
 6 They didn't want to talk to me.  
 7 I wrote letters, I made phone calls. Nothing  
 8 was answered. I wrote letters to your  
 9 office, it wasn't answered. I wrote to  
 10 Traschen, Bushra Vahdat, Gelbstein. They  
 11 were all ignored.  
 12 I was charged -- I was not  
 13 charged by the police. There was nothing  
 14 they had against me. I did nothing wrong.  
 15 Q. And so you were expelled in May  
 16 of 2015.  
 17 Why didn't you bring an Article  
 18 78 proceeding?  
 19 A. Because I couldn't get money. I  
 20 had money that I had to return, that I was  
 21 due. I couldn't get money in an Article 78  
 22 proceeding.  
 23 I wanted a Federal Court judge on  
 24 this case. I was tired with this New York  
 25 State Court, everybody protecting one another

<p style="text-align: right;">Page 90</p> <p>1 Mario H. Capogrosso</p> <p>2 and brushing complaints under the rug. I was</p> <p>3 tired of it. I wanted a Federal Court judge</p> <p>4 to listen to this complaint, because they</p> <p>5 stand above it. That was my opinion. I</p> <p>6 wanted a Federal Court judge, number one.</p> <p>7 And two, I was owed money, and I</p> <p>8 can't get that in an Article 78 proceeding.</p> <p>9 Q. So you think -- so you think the</p> <p>10 New York State Courts were corrupt?</p> <p>11 A. No. I didn't think I was going</p> <p>12 to get a fair hearing.</p> <p>13 Q. Why not?</p> <p>14 A. I wanted a Federal Court judge.</p> <p>15 I wanted a judge who stood above it.</p> <p>16 Q. Why didn't you think you would</p> <p>17 get a fair hearing in Kings County Supreme</p> <p>18 Court?</p> <p>19 A. I didn't think I would.</p> <p>20 Q. Why not?</p> <p>21 A. I saw how all the judges at the</p> <p>22 TVB were treating me. I saw how the judges</p> <p>23 at the TVB, Judge Gelbstein, laughing and</p> <p>24 giggling when I made my complaint; a spade is</p> <p>25 a spade. Bushra Vahdat lying, a judge lying.</p>	<p style="text-align: right;">Page 92</p> <p>1 Mario H. Capogrosso</p> <p>2 opinion. And I wanted the money owed to me</p> <p>3 on this case.</p> <p>4 Q. All right.</p> <p>5 MR. THOMPSON: Hold on one</p> <p>6 second. And this maybe a little dicey,</p> <p>7 because we are doing this over Zoom, but</p> <p>8 I am going to share a document with you</p> <p>9 and with everyone. So please, everyone</p> <p>10 let me know if there is a problem</p> <p>11 viewing this.</p> <p>12 Can everyone see this document?</p> <p>13 THE WITNESS: Yes.</p> <p>14 MR. THOMPSON: Mr. Videographer</p> <p>15 and Madam Court Reporter, can you see</p> <p>16 the document?</p> <p>17 THE COURT REPORTER: Yes.</p> <p>18 MR. VIDEOGRAPHER: I am sorry.</p> <p>19 My mic was muted.</p> <p>20 I see it, Counsel.</p> <p>21 MR. THOMPSON: Okay. Very good.</p> <p>22 Q. Mr. Capogrosso, do you recognize</p> <p>23 this document?</p> <p>24 A. My affirmation of service.</p> <p>25 Q. I will scroll down to page two,</p>
<p style="text-align: right;">Page 91</p> <p>1 Mario H. Capogrosso</p> <p>2 I can go into her lies. Traschen not</p> <p>3 returning phone calls.</p> <p>4 I saw how I was being treated. I</p> <p>5 didn't think I was going to get a fair</p> <p>6 chance. That was my decision.</p> <p>7 I told you why I made it. I</p> <p>8 wanted to see, number one, if they had</p> <p>9 anything against me, either criminally or by</p> <p>10 way of a grievance, and they do not.</p> <p>11 And two, I wanted a judge who</p> <p>12 stood above it all.</p> <p>13 And three, I was owed money.</p> <p>14 Q. So if you felt that the State</p> <p>15 Supreme Court was going to be corrupt or</p> <p>16 unfair, why would --</p> <p>17 A. I didn't say that. I said I</p> <p>18 wasn't going to get a fair chance.</p> <p>19 MR. THOMPSON: Withdrawn.</p> <p>20 Q. If you felt the State Supreme</p> <p>21 Court was going to be unfair, why would the</p> <p>22 Federal Court be any different?</p> <p>23 A. I told you my belief is a Federal</p> <p>24 Court judge sits above this, sits above it.</p> <p>25 That is just my opinion. I am entitled to my</p>	<p style="text-align: right;">Page 93</p> <p>1 Mario H. Capogrosso</p> <p>2 because that may make it a little easier to</p> <p>3 recognize.</p> <p>4 A. Yeah. My response to your</p> <p>5 interrogatories, yeah. Yes, I do.</p> <p>6 Q. And this is your document that</p> <p>7 you wrote, correct?</p> <p>8 A. Yes. Well, I have to see my</p> <p>9 signature. But yeah, I would assume it is.</p> <p>10 Q. We can go down here to page --</p> <p>11 A. Yeah, that is my signature.</p> <p>12 Q. -- 17. That is your signature?</p> <p>13 A. Yes.</p> <p>14 MR. THOMPSON: Madam, I ask you</p> <p>15 to mark this as Defendant's 1, with the</p> <p>16 understanding that we discussed before</p> <p>17 that it will actually be formally marked</p> <p>18 once it is entered into the Veritext</p> <p>19 server after the deposition.</p> <p>20 Is that something that you need</p> <p>21 to explain on the record, Madam Court</p> <p>22 Reporter?</p> <p>23 THE COURT REPORTER: No.</p> <p>24 (Whereupon, a document was deemed</p> <p>25 marked as Defendant's Exhibit 1 for</p>



<p style="text-align: right;">Page 94</p> <p>1 Mario H. Capogrosso  2 identification, as of this date.)  3 Q. Let's go down to page 17. And  4 again, you said this was your signature?  5 A. Yes.  6 Q. And this declaration on page 18,  7 you declared that, correct?  8 A. Yes.  9 Q. So do you still believe  10 everything in your interrogatory responses is  11 true and correct?  12 A. I signed it, so yes.  13 Q. Are you aware under the Federal  14 Rules, you have the right and the obligation  15 to amend your responses if anything is not  16 correct or if there is an important omission?  17 A. Yes. I am trying to be truthful,  18 yes.  19 Q. Okay. So let's go up there to  20 interrogatory one. We are on page five. I  21 would like to talk a little bit about the  22 damages that you are claiming in this case.  23 A. All right.  24 Q. So interrogatory number one, we  25 asked you for a calculation of damages and</p>	<p style="text-align: right;">Page 96</p> <p>1 Mario H. Capogrosso  2 A. Judge Gelbstein. Bushra Vahdat,  3 the worst of them, Bushra Vahdat. Ida  4 Traschen, your clerical staff, Danielle  5 Calvo, who never looked at the videotape and  6 had me removed. Who else? Melanie Levine,  7 another clerical supervisor who I didn't  8 mention.  9 Q. Okay.  10 A. David Smart, who approached me  11 and instigated this.  12 Q. And you want them all to be  13 punished?  14 A. Yes, I do. Yeah, yes. The jury  15 is going to make that determination.  16 But do I seek punishment? Yes.  17 Q. And are you aware that Ms. Vahdat  18 is no longer a defendant in this case, and I  19 don't believe Ms. Levine was ever a defendant  20 in this case?  21 A. True. That is true.  22 Q. So this figure, this 20 million  23 dollar figure, where does that come from?  24 A. Where does it come from?  25 Q. Yes?</p>
<p style="text-align: right;">Page 95</p> <p>1 Mario H. Capogrosso  2 how they were calculated.  3 The first category you see, you  4 said plaintiff seeks punitive damages in an  5 amount to be determined, but not to exceed 20  6 million dollars, as stated in your complaint.  7 How much punitive damages are you  8 actually seeking, because there is sort of  9 not a specific figure.  10 A. Everything I stated in my  11 complaint, 20 million dollars per count. I  12 have to have look at my --  13 Q. 20 million dollars?  14 A. It is my count.  15 Q. So you are seeking 20 million  16 dollars in punitive damages?  17 A. Yeah, sure. Absolutely.  18 Q. Where does that figure come from?  19 A. These are judges. Judges who  20 acted wrongly. Judges who acted wrongly to  21 have damaged my name and reputation, and they  22 need to be honest. That is my opinion. That  23 is for a jury to decide how much.  24 Q. When you say judges, do you  25 mean -- who specifically do you mean?</p>	<p style="text-align: right;">Page 97</p> <p>1 Mario H. Capogrosso  2 A. That is just a number.  3 It comes from my heart. That is  4 where it comes from. It is how I felt when I  5 wrote this complaint. What these judges,  6 this tribunal did to me, it comes from my  7 heart.  8 Q. So there is no formula that you  9 used to get there?  10 A. I don't know how you arrive at a  11 formula for punitive damages. I don't know  12 if there is formula.  13 Q. So no?  14 A. It comes from my heart. It comes  15 from the damage to my reputation and my name,  16 which I value at 20 million dollars. All  17 right. The damage to my name and reputation  18 as a lawyer, as a lawyer that I want to  19 continue practicing.  20 And I told you, I am going to  21 work until I drop, and I want to continue to  22 work my whole life.  23 Damage to my name and reputation  24 as a lawyer, that is where it comes from.  25 Q. So were --</p>

25 (Pages 94 - 97)

<p style="text-align: right;">Page 98</p> <p>1 Mario H. Capogrosso</p> <p>2 A. And I have to explain this</p> <p>3 number, explain my removal to any court that</p> <p>4 I seek admittance to. Any court, I have to</p> <p>5 explain this somehow.</p> <p>6 Q. So why 20 million dollars and not</p> <p>7 50 million dollars or five million dollars or</p> <p>8 500,000?</p> <p>9 A. I don't -- let's see. All right.</p> <p>10 Let's see. Normally -- I am 58 when I wrote</p> <p>11 this. I want to work at least -- I was</p> <p>12 figuring a million dollars a year for the</p> <p>13 next 20 years, the damage to my name and</p> <p>14 reputation.</p> <p>15 Q. So you viewed this punitive</p> <p>16 damage as covering the damage to your name</p> <p>17 and reputation, correct?</p> <p>18 A. Name, reputation and for the</p> <p>19 wrongful conduct, the wrongful, improper</p> <p>20 conduct of judges, the clerical staff at the</p> <p>21 Brooklyn TVB; wrongful, egregious conduct of</p> <p>22 these judges and this clerical staff, yes.</p> <p>23 Q. So moving to item number two, you</p> <p>24 say \$122,715 in lost revenue, representing</p> <p>25 approximately 15 months of projected</p>	<p style="text-align: right;">Page 100</p> <p>1 Mario H. Capogrosso</p> <p>2 you had already collected this money; is that</p> <p>3 correct?</p> <p>4 A. Part of it was collected. Not</p> <p>5 all of it.</p> <p>6 It was due. All of that was due.</p> <p>7 Part it was, part of it wasn't. It is all in</p> <p>8 the exhibit to you.</p> <p>9 MR. THOMPSON: So let's go to</p> <p>10 that exhibit. I am going to figure out</p> <p>11 how to stop sharing my screen. Please</p> <p>12 bear with me. I am having some</p> <p>13 technical difficulties.</p> <p>14 Can you guys see Exhibit 2 now?</p> <p>15 THE WITNESS: No.</p> <p>16 MR. THOMPSON: You are seeing the</p> <p>17 same thing?</p> <p>18 THE WITNESS: Yes, not seeing any</p> <p>19 exhibits.</p> <p>20 MR. THOMPSON: You are not seeing</p> <p>21 anything?</p> <p>22 THE WITNESS: No.</p> <p>23 MR. THOMPSON: All right. Can</p> <p>24 everyone see this?</p> <p>25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 Mario H. Capogrosso</p> <p>2 receipts.</p> <p>3 Can you explain how you came to</p> <p>4 that figure?</p> <p>5 A. I gave you my exhibit. That was</p> <p>6 the money that I had collected, the money</p> <p>7 that I was owed to me. It was the total</p> <p>8 monies owed, I think.</p> <p>9 And I gave you my breakdown that</p> <p>10 was still on my calendar, that I either would</p> <p>11 have earned or collected if I was given the</p> <p>12 ability to represent to finish my caseload.</p> <p>13 It was \$122,000, and was still remaining on</p> <p>14 my caseload going forward.</p> <p>15 Q. Okay.</p> <p>16 A. From May 11th, the day I left, my</p> <p>17 caseload showed \$122,000.</p> <p>18 Q. So these were cases that you had</p> <p>19 already -- that you had already argued and</p> <p>20 conducted, that you had outstanding bills</p> <p>21 for, or these were cases that you were going</p> <p>22 to argue in the future?</p> <p>23 A. Going to argue in the future,</p> <p>24 that I was not able to earn.</p> <p>25 Q. Okay. And you had already -- and</p>	<p style="text-align: right;">Page 101</p> <p>1 Mario H. Capogrosso</p> <p>2 MR. THOMPSON: Okay. So let's</p> <p>3 rotate this, just so that it is facing</p> <p>4 up.</p> <p>5 So can everyone see this document</p> <p>6 here?</p> <p>7 THE VIDEOGRAPHER: Yes, Counsel.</p> <p>8 THE WITNESS: Yes.</p> <p>9 Q. And, Mr. Capogrosso, do you</p> <p>10 recognize this document?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. That is my Excel worksheet that</p> <p>14 shows my -- the date that I was initially</p> <p>15 hired, the location.</p> <p>16 I kept a very detailed calendar,</p> <p>17 very detailed. The subject matter would show</p> <p>18 the client's name and the ticket, which I</p> <p>19 redacted; the due date, which is the date I</p> <p>20 had to be in court; the total amount that I</p> <p>21 charged on the case, the amount that was paid</p> <p>22 and the amount that was owed.</p> <p>23 Now, on the ones that are on the</p> <p>24 right there, it wasn't a Brooklyn TVB case or</p> <p>25 a TVB case for Red Hook, it was down in</p>

26 (Pages 98 - 101)

<p style="text-align: right;">Page 102</p> <p>1 Mario H. Capogrosso</p> <p>2 criminal court. I moved that to the right.</p> <p>3 I didn't feel that was appropriate.</p> <p>4 Q. So for instance, you are talking</p> <p>5 about this line here, and I am</p> <p>6 highlighting --</p> <p>7 A. Yes.</p> <p>8 Q. -- this line here, Monday,</p> <p>9 April 27, 2015, due Monday, May 18, 2015?</p> <p>10 A. Which myself, I had to be --</p> <p>11 Q. Page one.</p> <p>12 A. I had to be on Red Hook, which is</p> <p>13 criminal court, down in Brooklyn, on May --</p> <p>14 and that was -- gave me 300 on that case.</p> <p>15 Yes, so I didn't put that in</p> <p>16 there, because it wasn't a TVB case.</p> <p>17 Q. Just for the record, this</p> <p>18 document is number P191 through P206,</p> <p>19 correct?</p> <p>20 A. That was my Bates Stamp when I</p> <p>21 submitted the document to you.</p> <p>22 Q. Can you explain to me what the</p> <p>23 start date means?</p> <p>24 A. The start date was when I</p> <p>25 initially got hired on, the date.</p>	<p style="text-align: right;">Page 104</p> <p>1 Mario H. Capogrosso</p> <p>2 court after May 11th. I was ordered not to,</p> <p>3 and I did not. I didn't take any new cases</p> <p>4 on after May 11th and have the ability --</p> <p>5 Q. And so --</p> <p>6 A. Go ahead.</p> <p>7 Q. And so what is -- is BS, Brooklyn</p> <p>8 South?</p> <p>9 A. Yes.</p> <p>10 Q. What is appeal?</p> <p>11 A. Appeal, they hired me on an</p> <p>12 appeal.</p> <p>13 Q. Is that DMV appeals court?</p> <p>14 A. Yes. But I didn't take anything</p> <p>15 after May 11th.</p> <p>16 Q. What is STLISL?</p> <p>17 A. Staten Island.</p> <p>18 Q. And what is Kent?</p> <p>19 A. That would have been Upstate,</p> <p>20 which I moved to the right. That is an</p> <p>21 Upstate court that I was hired on.</p> <p>22 Q. Is that Kent County?</p> <p>23 A. It was Kent -- Kent -- Kent.</p> <p>24 Yeah, I don't know.</p> <p>25 I would have written it out with</p>
<p style="text-align: right;">Page 103</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. So I have noticed some of these</p> <p>3 start dates are after your expulsion from the</p> <p>4 TVB. For instance, I am looking at the</p> <p>5 bottom of page P191, and there is two --</p> <p>6 there is a number of items that are marked</p> <p>7 Thursday, May 21, 2015. One is BS, one is</p> <p>8 appeal, one is STLISL, and one Kent.</p> <p>9 Can you explain to me what those</p> <p>10 mean?</p> <p>11 A. Yeah, I don't know. Maybe that</p> <p>12 is just a clerical error.</p> <p>13 I know I took on no new cases</p> <p>14 after I was removed. I don't know how that</p> <p>15 happened. Maybe it was just a clerical --</p> <p>16 Q. What is --</p> <p>17 A. I don't know. I seriously I</p> <p>18 don't know. I don't know.</p> <p>19 Q. What do those four -- my</p> <p>20 apologies, Mr. Capogrosso. You can keep</p> <p>21 answering, if you have more that you need to</p> <p>22 say.</p> <p>23 A. I don't know why that is like</p> <p>24 that. I don't understand that.</p> <p>25 I know I didn't appear in any</p>	<p style="text-align: right;">Page 105</p> <p>1 Mario H. Capogrosso</p> <p>2 the Kent County Village Court Upstate.</p> <p>3 Q. And so the due date starts on</p> <p>4 May 11, 2015, because these are future cases</p> <p>5 that you were going to handle in the future;</p> <p>6 is that correct?</p> <p>7 A. Yes, that I was not able to.</p> <p>8 Q. Can you explain how you billed</p> <p>9 your cases? Did you charge by the hour or</p> <p>10 case?</p> <p>11 A. The motorists would come in.</p> <p>12 They knew me. They would approach me.</p> <p>13 I never approached a motorist,</p> <p>14 never. There were signs all over the place</p> <p>15 not to -- the other attorneys did, solicited</p> <p>16 left and right. I didn't.</p> <p>17 They approached me, asked me if I</p> <p>18 am a lawyer. A lot of guys knew me already,</p> <p>19 they walked up to me. You want to take the</p> <p>20 case? Yes. Took out my legal pad. I wrote</p> <p>21 down their name, their phone number, their</p> <p>22 license ID, license number, their date of</p> <p>23 birth, which is the information I needed.</p> <p>24 The court in which it was in,</p> <p>25 which is mostly Brooklyn South. I wrote them</p>

<p style="text-align: right;">Page 106</p> <p>1 Mario H. Capogrosso</p> <p>2 a receipt the way all the attorneys did it.</p> <p>3 We wrote it on the back of a business card,</p> <p>4 for the most part. Put the total, the amount</p> <p>5 paid, the amount owed. I gave them the</p> <p>6 receipt. I had my legal pad, showed</p> <p>7 everything, all the information I took.</p> <p>8 And I calendared it. I put it in</p> <p>9 my calendar. Oftentimes these due dates got</p> <p>10 changed, all the time. All the time, the due</p> <p>11 dates got changed. Cases were being</p> <p>12 rescheduled constantly.</p> <p>13 Albany has the ability to</p> <p>14 reschedule a case. The motorist can</p> <p>15 reschedule a case. The police officer can</p> <p>16 reschedule a case. I can reschedule a case.</p> <p>17 The DMV can reschedule a case. The cases got</p> <p>18 rescheduled all the time. Those due dates</p> <p>19 changed all the time.</p> <p>20 Q. So, Mr. Capogrosso, that</p> <p>21 wasn't -- I appreciate that.</p> <p>22 I think the question was a little</p> <p>23 bit narrower, which was how did you charge</p> <p>24 for your services? Did you bill by the hour?</p> <p>25 A. No, each ticket. Each ticket.</p>	<p style="text-align: right;">Page 108</p> <p>1 Mario H. Capogrosso</p> <p>2 Predominately it was 150 or a hundred. If it</p> <p>3 was done that day, and they walked in that</p> <p>4 day, I charged a hundred. But that is how I</p> <p>5 did it.</p> <p>6 Q. I think the most I saw for any of</p> <p>7 the cases on here was 250.</p> <p>8 What would be a \$250 case?</p> <p>9 A. That was Queens South. So I</p> <p>10 would have to travel down to Queens South. I</p> <p>11 couldn't be in the Brooklyn South Traffic</p> <p>12 Violations Bureau, so I had to reschedule to</p> <p>13 make sure I was there. And that is the fee</p> <p>14 we agreed on.</p> <p>15 Q. Okay. So why did you redact the</p> <p>16 items in the middle?</p> <p>17 A. It was client information. I</p> <p>18 didn't feel comfortable revealing it. Names,</p> <p>19 phone numbers, ID numbers, driver's license</p> <p>20 ID numbers, dates of births, phone numbers, I</p> <p>21 am not going to give you that information.</p> <p>22 It is not right.</p> <p>23 Q. Is there any legal authority for</p> <p>24 you to redact that?</p> <p>25 A. It is just client information.</p>
<p style="text-align: right;">Page 107</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. So you billed by the ticket?</p> <p>3 A. Yeah. 150, 250. The total was</p> <p>4 the amount I billed. That column that says</p> <p>5 total, that is the amount that I charged.</p> <p>6 Q. And how did you know how much to</p> <p>7 charge?</p> <p>8 A. Which is what everybody -- just</p> <p>9 the going rate that everybody was charging.</p> <p>10 If the case was in Brooklyn</p> <p>11 South, and it was that day, normally I</p> <p>12 charged a hundred. If it was -- you know,</p> <p>13 other than that, I normally charge 150,</p> <p>14 because the case, like I say, got pushed out</p> <p>15 several times over.</p> <p>16 If it was that day, it was</p> <p>17 charged a hundred. If it was like, I don't</p> <p>18 know, tinted window, I charged less, because</p> <p>19 it didn't carry no point violations.</p> <p>20 If it was in another county, I</p> <p>21 charged more, because I had to travel there.</p> <p>22 If it was like in Manhattan</p> <p>23 South, I would charge 200, because I had to</p> <p>24 travel and be at a different courthouse.</p> <p>25 That is pretty much how I did it.</p>	<p style="text-align: right;">Page 109</p> <p>1 Mario H. Capogrosso</p> <p>2 It is privileged information. I am not going</p> <p>3 to give you my client's phone numbers. I am</p> <p>4 not going to do that. I don't think it's</p> <p>5 appropriate, or their name. It is not</p> <p>6 appropriate. Or their New York driver's</p> <p>7 license ID, I don't think it's appropriate.</p> <p>8 I don't think it is relevant and material.</p> <p>9 To me, it is privileged information.</p> <p>10 Q. Did you seek -- did you seek a</p> <p>11 protective order or confidentiality order?</p> <p>12 A. No, I did not.</p> <p>13 Q. All right. So I will show you,</p> <p>14 Mr. Capogrosso, in what you produced to us,</p> <p>15 the pages there is a gap between pages 201</p> <p>16 and 206. Are you aware of that? It goes</p> <p>17 straight from 201 down to 206. Why didn't</p> <p>18 you produce the pages in between?</p> <p>19 A. No, I produced it. I have to</p> <p>20 look.</p> <p>21 How did I send this to you?</p> <p>22 Maybe your -- maybe your -- I sent you this.</p> <p>23 Maybe your -- I walked this down to your</p> <p>24 office. I didn't scan it and send it to you,</p> <p>25 I walked this down to your office.</p>



<p style="text-align: right;">Page 110</p> <p>1 Mario H. Capogrosso</p> <p>2 Maybe the person who scanned it</p> <p>3 didn't scan it in properly. I didn't leave</p> <p>4 out anything. None. Maybe somebody in your</p> <p>5 office that scanned it improperly.</p> <p>6 Q. Okay. So you are confident --</p> <p>7 A. Yes, I am. Absolutely. I left</p> <p>8 nothing out.</p> <p>9 Q. You are confident you produced</p> <p>10 everything, correct?</p> <p>11 A. Yes. And I will get you those</p> <p>12 missing pages, I will. I don't think I</p> <p>13 misnumbered this.</p> <p>14 Q. So you indicated that the lost</p> <p>15 revenue was \$122,715 for 15 months; is that</p> <p>16 correct?</p> <p>17 A. That was the money remaining on</p> <p>18 my docket, yes, that I couldn't finish.</p> <p>19 Q. And did you divide that by adding</p> <p>20 up this column paid?</p> <p>21 A. No, the total column, total.</p> <p>22 Q. So did that assume that everyone</p> <p>23 was going to pay you what they owed?</p> <p>24 A. Yes, the money that was due.</p> <p>25 Q. Does everyone always pay you what</p>	<p style="text-align: right;">Page 112</p> <p>1 Mario H. Capogrosso</p> <p>2 practice?</p> <p>3 A. I had a -- I had a virtual office</p> <p>4 up in Hawthorne, Connecticut, where I</p> <p>5 received mail, where I can receive clients.</p> <p>6 You can use the conference room. I had my</p> <p>7 home office I used. I had an apartment in</p> <p>8 Brooklyn at the time. I had travel expenses.</p> <p>9 I had my home -- we have the home up here in</p> <p>10 New Rochelle. What else? Travel expenses.</p> <p>11 What else do you have? You have the bridges</p> <p>12 going back and forth, gas, the tolls. That</p> <p>13 is it, normal operating expenses.</p> <p>14 Laptop, desktop, copier, paper,</p> <p>15 You know, my dues, my association dues to</p> <p>16 practice law, my license dues, my CLE dues,</p> <p>17 all that stuff.</p> <p>18 Q. So why didn't you include your</p> <p>19 expenses in your calculation?</p> <p>20 A. I didn't think I needed to.</p> <p>21 My expenses are my expenses.</p> <p>22 That is the total money that I</p> <p>23 was owed.</p> <p>24 My expenses are my expenses.</p> <p>25 Q. But if you weren't practicing</p>
<p style="text-align: right;">Page 111</p> <p>1 Mario H. Capogrosso</p> <p>2 they owe?</p> <p>3 A. Yeah, for the most part. My</p> <p>4 clients are very -- for the most part, yes.</p> <p>5 Yes.</p> <p>6 Q. But sometimes people don't?</p> <p>7 A. For the most part, my clients</p> <p>8 paid me. They liked me, and they paid me,</p> <p>9 and they respected what I did for them in a</p> <p>10 courtroom, they did. I rarely had a</p> <p>11 problem --</p> <p>12 Q. Wouldn't it be true that --</p> <p>13 wouldn't it be true to say that sometimes</p> <p>14 clients don't pay what they owe?</p> <p>15 A. For the most part, my client</p> <p>16 always paid. They paid.</p> <p>17 Q. But not always, correct?</p> <p>18 A. I don't recall when they didn't.</p> <p>19 I really don't.</p> <p>20 My clients paid me. They liked</p> <p>21 me, my clients. They respected what I did</p> <p>22 for them in a courtroom, and they paid me.</p> <p>23 Q. So you indicated that \$122,715</p> <p>24 figure was lost revenue.</p> <p>25 What were your expenses for your</p>	<p style="text-align: right;">Page 113</p> <p>1 Mario H. Capogrosso</p> <p>2 law, didn't you not need to pay for a great</p> <p>3 deal of those expenses?</p> <p>4 A. What does that have to do with</p> <p>5 the money I could have generated? I don't</p> <p>6 understand. It is not relevant. Has nothing</p> <p>7 do with my expenses, with the money I could</p> <p>8 have been given. Nothing to do with it.</p> <p>9 Q. So it is your testimony that it</p> <p>10 wouldn't have cost you any money to make this</p> <p>11 money?</p> <p>12 A. It would have cost me money to</p> <p>13 make this money.</p> <p>14 Q. So why didn't you include your</p> <p>15 expenses in your calculations of your damage?</p> <p>16 A. Including my expenses, I didn't</p> <p>17 think it was relevant. That is the money I</p> <p>18 was owed. To me, it is not -- why expenses</p> <p>19 should be taken off of the total revenue to</p> <p>20 me, it was not relevant. That is the money I</p> <p>21 was owed.</p> <p>22 Q. Okay. And in terms of --</p> <p>23 A. Wait. Wait. Wait. Let me think</p> <p>24 about this question for a minute.</p> <p>25 Q. Sure.</p>

<p style="text-align: right;">Page 114</p> <p>1 Mario H. Capogrosso</p> <p>2 A. Because I have to understand what</p> <p>3 you're saying here.</p> <p>4 Total money owed, you are saying</p> <p>5 that I should take off my expenses.</p> <p>6 Let me try to understand it.</p> <p>7 That is the money I was owed, that is it.</p> <p>8 That is the money was I owed and the money I</p> <p>9 lost.</p> <p>10 Q. Okay. And your expenses included</p> <p>11 the virtual office in Connecticut, home</p> <p>12 office in --</p> <p>13 A. No, no. Virtual office was</p> <p>14 Hawthorne, New York.</p> <p>15 Q. Apologies. The virtual office in</p> <p>16 Hawthorne, New York, the mail in Connecticut,</p> <p>17 home office, Brooklyn apartment, CLE, bar</p> <p>18 fees, travel, wear and tear on the car.</p> <p>19 Anything else?</p> <p>20 A. Yeah. There was no mail in</p> <p>21 Connecticut.</p> <p>22 Q. Didn't you say you had a place in</p> <p>23 Connecticut where you received mail?</p> <p>24 A. No, no, no, no. I received my</p> <p>25 mail -- at that point I had an apartment in</p>	<p style="text-align: right;">Page 116</p> <p>1 Mario H. Capogrosso</p> <p>2 collected. I have shown you that.</p> <p>3 Now, did I earn all that money?</p> <p>4 No. I showed you the money that I could have</p> <p>5 collected.</p> <p>6 Q. Mr. Capogrosso, how much income</p> <p>7 did you claim on your taxes in 2013?</p> <p>8 A. I don't recall.</p> <p>9 Q. Do you recall --</p> <p>10 A. Was it everything -- all the</p> <p>11 revenue showed here? No. Not all the</p> <p>12 revenue is shown here, because these tickets</p> <p>13 were not necessarily completed on the due</p> <p>14 date. And I didn't earn this money until I</p> <p>15 completed the ticket.</p> <p>16 For example, a ticket that was</p> <p>17 due date on May 11, 2015 might not get done,</p> <p>18 completed for two years from that date. Two</p> <p>19 years. Cases got rescheduled constantly.</p> <p>20 Q. So the actual income that you</p> <p>21 would report on your taxes would be lower; is</p> <p>22 that correct?</p> <p>23 A. Yes, lower. Because that was the</p> <p>24 money, the money when I completed the cases,</p> <p>25 when I actually completed it. That, to me,</p>
<p style="text-align: right;">Page 115</p> <p>1 Mario H. Capogrosso</p> <p>2 Brooklyn. We have a home up here in</p> <p>3 New Rochelle.</p> <p>4 No. I was licensed in</p> <p>5 Connecticut. I did have a couple of cases in</p> <p>6 Connecticut, only a couple which did not</p> <p>7 involve the TVB; but I do have an office in</p> <p>8 Connecticut.</p> <p>9 Q. So, Mr. Capogrosso, do you recall</p> <p>10 that we asked you for your tax returns from</p> <p>11 the relevant period?</p> <p>12 A. Yes.</p> <p>13 Q. And did you produce them?</p> <p>14 A. No.</p> <p>15 Q. Why not?</p> <p>16 A. Because I don't think they are</p> <p>17 relevant material. I do not.</p> <p>18 Q. Why don't you think so?</p> <p>19 A. Because I am showing you what I</p> <p>20 could have made right there. I showed you</p> <p>21 what I could have made. I have given you all</p> <p>22 the money that I generated.</p> <p>23 My tax returns are my tax</p> <p>24 returns. I don't think they are relevant</p> <p>25 material. I have shown you the money that I</p>	<p style="text-align: right;">Page 117</p> <p>1 Mario H. Capogrosso</p> <p>2 then I finally earned that money. Until I</p> <p>3 completed the case, I didn't earn it.</p> <p>4 Q. Mr. Capogrosso, do you have an</p> <p>5 estimate of how much money you claimed as</p> <p>6 income on your taxes in 2013, ballpark</p> <p>7 figure?</p> <p>8 A. What I am showing here is I would</p> <p>9 bring in about 8,000 a month. Bring in,</p> <p>10 which is what this works out to. But you</p> <p>11 didn't complete \$8,000 worth of work in a</p> <p>12 month, you didn't complete it. That is what</p> <p>13 you brought in. You might have finished, you</p> <p>14 know, maybe 11, 1200 a week, maybe, where you</p> <p>15 actually completed 11, 1200 dollars worth of</p> <p>16 work a week.</p> <p>17 You know, that is what I would</p> <p>18 have completed.</p> <p>19 Probably what you brought in was</p> <p>20 more.</p> <p>21 Q. So I apologize if I don't quite</p> <p>22 understand.</p> <p>23 You would have completed about 11</p> <p>24 or 1200 dollars worth of work per week, but</p> <p>25 you would have brought in a little more.</p>



<p style="text-align: right;">Page 118</p> <p>1 Mario H. Capogrosso</p> <p>2 Can you explain that?</p> <p>3 A. Bring in clients, you bring in</p> <p>4 revenue.</p> <p>5 Like I said, a guy would hire me,</p> <p>6 give me a ticket. You might collect \$2,000</p> <p>7 worth of tickets in a week or \$8,000 in a</p> <p>8 month.</p> <p>9 But the cases that were actually</p> <p>10 finished in that month or in that week would</p> <p>11 be about 11 to 1200 dollars, around that</p> <p>12 figure a week.</p> <p>13 Q. And it is not income for you</p> <p>14 until the case is completed; is that correct?</p> <p>15 A. Absolutely. Absolutely. I have</p> <p>16 not earned that money until I argue that</p> <p>17 case. I have not earned that money until I</p> <p>18 personally appeared and argue that case. I</p> <p>19 have not earned that money.</p> <p>20 Q. Understood.</p> <p>21 So do you have an estimate of how</p> <p>22 much income you would claim on your taxes in</p> <p>23 2013, 2014?</p> <p>24 A. I don't recall. Probably would</p> <p>25 have been 11 to 1200 dollars a week. That</p>	<p style="text-align: right;">Page 120</p> <p>1 Mario H. Capogrosso</p> <p>2 Q. Well, I am sure as heck not ready</p> <p>3 to pay my 2020 taxes, so I won't ask you for</p> <p>4 your estimates for this year, because I</p> <p>5 certainly have no idea.</p> <p>6 So let's go back to Exhibit 1.</p> <p>7 A. Yeah.</p> <p>8 Q. Switching my screen back to that.</p> <p>9 MR. THOMPSON: Can everyone see</p> <p>10 Exhibit 1?</p> <p>11 THE WITNESS: Yes.</p> <p>12 MR. THOMPSON: And, Madam Court</p> <p>13 Reporter, before we are done with</p> <p>14 Exhibit 2, had I asked you to mark that</p> <p>15 yet?</p> <p>16 THE COURT REPORTER: I can check</p> <p>17 for you. Off the top of my head, I</p> <p>18 don't remember, Counsel.</p> <p>19 MR. THOMPSON: There is no need</p> <p>20 to check. Let me just ask you now to</p> <p>21 please have that marked as Exhibit 2.</p> <p>22 (Whereupon, a document was deemed</p> <p>23 marked as Exhibit 2 for identification,</p> <p>24 as of this date.)</p> <p>25 THE COURT REPORTER: Before we</p>
<p style="text-align: right;">Page 119</p> <p>1 Mario H. Capogrosso</p> <p>2 was work that I actually completed, actually</p> <p>3 completed for the week.</p> <p>4 Q. And do you recall approximately</p> <p>5 how much income you claimed on your taxes in</p> <p>6 2015?</p> <p>7 A. No.</p> <p>8 Q. What about in 2016, the year</p> <p>9 after the first full year when you were no</p> <p>10 longer work at the TVB? Do you recall how</p> <p>11 much money you claimed on your taxes?</p> <p>12 A. No.</p> <p>13 Q. And 2017 and 2018, do you also</p> <p>14 not recall?</p> <p>15 A. Well, in '18 I was working for</p> <p>16 Jiang. Like I said, he was paying me 85,000</p> <p>17 year, 85,000.</p> <p>18 But I was a 1099, so that is what</p> <p>19 it would have been. The Law Firm of Yuan</p> <p>20 Jiang, I know he was paying me 85 a year.</p> <p>21 Q. And so the same for 2019?</p> <p>22 A. Yeah. But I started with Jiang</p> <p>23 in March of 2018, and 2019 it would have been</p> <p>24 a full. But this part of 2020, I stopped</p> <p>25 working for him on March 17, 2020.</p>	<p style="text-align: right;">Page 121</p> <p>1 Mario H. Capogrosso</p> <p>2 continue, can we take a break?</p> <p>3 MR. THOMPSON: Sure. Actually</p> <p>4 yeah, let's take a quick five-minute</p> <p>5 break.</p> <p>6 Is that fine with you,</p> <p>7 Mr. Capogrosso?</p> <p>8 THE WITNESS: Yes. 11:45?</p> <p>9 MR. THOMPSON: 11:45.</p> <p>10 THE VIDEOGRAPHER: The time is</p> <p>11 11:40. We are off the record.</p> <p>12 (Whereupon, a short recess was</p> <p>13 taken at 11:40).</p> <p>14 (Time noted: 11:40 a.m.)</p> <p>15</p> <p>16 _____</p> <p>17 MARIO H. CAPOGROSSO</p> <p>18 Subscribed and sworn to before me this</p> <p>19 _____ day of _____, 2020.</p> <p>20 _____, Notary</p> <p>21 Public.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1</p> <p>2 CERTIFICATE</p> <p>3</p> <p>4 I, MARIA ACOCELLA, a Notary Public within</p> <p>5 and for the State of New York, do hereby</p> <p>6 certify:</p> <p>7 That the witness whose deposition is</p> <p>8 hereinbefore set forth, was duly sworn by me</p> <p>9 and that the within transcript is a true</p> <p>10 record of the testimony given by such</p> <p>11 witness.</p> <p>12 I further certify that I am not related to</p> <p>13 any of the parties to this action by blood</p> <p>14 or marriage and that I am in no way</p> <p>15 interested in the outcome of this matter.</p> <p>16 IN WITNESS WHEREOF, I have hereunto set my</p> <p>17 hand this 5th day of January, 2021.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																																																																				

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK  
4 CASE NO. CV-18-2710

5 -----x  
6 MARIO H. CAPOGROSSO,

7  
8 Plaintiff,

9 -against-

10 ALAN GELBSTEIN, et al.,

11 Defendants.  
12 -----x

13 December 18, 2020

14 11:48 a.m.

15 VIDEO EXAMINATION BEFORE TRIAL of  
16 MARIO H. CAPOGROSSO, the Plaintiff  
17 herein, taken by the Defendants, pursuant  
18 to Notice, before Lisa H. MacDonald, RPR,  
19 and Notary Public of the State of New  
20 York.

21  
22 VOLUME II  
23  
24  
25

<p style="text-align: right;">Page 126</p> <p>1 2 APPEARANCES: 3 4 5 MARIO H. CAPOGROSSO, ESQ. 6 21 Sheldrake Place 7 New Rochelle, New York 10804 8 Plaintiff Pro Se 9 10 STATE OF NEW YORK, OFFICE OF THE ATTORNEY 11 GENERAL, LETITIA JAMES 12 28 Liberty Street 13 New York, New York 10005 14 Attorneys for Defendants 15 BY: JAMES THOMPSON, ASSISTANT 16 ATTORNEY GENERAL 17 18 ALSO PRESENT: 19 20 Howard Brodsky, Videographer 21 22 23 24 25</p>	<p style="text-align: right;">Page 128</p> <p>1 M.H. Capogrosso 2 on a case and you don't show up on that 3 case, your reputation has been -- has 4 been damaged. It's been taken away. 5 Nobody is going to trust you anymore. 6 Nobody is going to hire you on another 7 case especially in Brooklyn if you take 8 their money and you don't show up. The 9 worst thing you can do to a Brooklyn 10 motorist or a Brooklyn client is take 11 their money and not show up. 12 I've dealt with the Brooklyn 13 community for 10 years. I've had threats 14 against my safety from the Brooklyn 15 community when I don't show up for a case 16 and I took their money. It's the worst 17 thing you can do is not show up on a case 18 and you take their money. 19 These are all cab drivers 20 that -- a lot of these cases. They're 21 all business -- they're all working men 22 for a living and you can't take their 23 money and not show up. 24 Now my reputation for 25 showing up in a courthouse in the</p>
<p style="text-align: right;">Page 127</p> <p>1 M.H. Capogrosso 2 MR. VIDEOGRAPHER: The time 3 is 11:48. We are on the record. 4 EXAMINATION BY 5 MR. THOMPSON: 6 Q So thank you, 7 Mr. Capogrosso. You can see we are back 8 looking at Exhibit 1; correct? 9 A Yes. 10 Q And we are at page 4 of the 11 breakdown of your damages. You see item 12 number 4 which talks about compensatory 13 damages to the loss and resultant damages 14 to your legal reputation in the Brooklyn 15 community. You see that, correct, 16 Mr. Capogrosso? 17 A I do, yeah. 18 Q And you estimated damages as 19 5 times the value of 15 months of your 20 revenue; is that correct? 21 A Yes. 22 Q So how did you arrive at 23 that figure? 24 A Well, your reputation as an 25 attorney is paramount. If you take money</p>	<p style="text-align: right;">Page 129</p> <p>1 M.H. Capogrosso 2 Brooklyn community has been -- has been 3 just -- has been ruined. I can't tell 4 you how it's been ruined. Who's going to 5 hire me on a case again? That's how I 6 got that number. 7 Q So but when you -- I 8 understand you feel that your reputation 9 has been harmed, but why did you 10 determine that the value of it was 5 11 times \$122,715? 12 A The exact number -- well, 13 122 was the money I could have brought 14 in, 122 and five years is the amount of 15 money since I left to the time I brought 16 the Complaint. I was removed on May 11, 17 2015 and to currently right now it's been 18 five years. 19 Q So -- 20 A Five and-a-half years. I 21 could have put it at 5.5, but I put it at 22 five. 23 Q So you chose that number 24 because you feel that it reflects the 25 amount of money that you could have</p>

2 (Pages 126 - 129)

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1 M.H. Capogrosso  
 2 brought in over those five years;  
 3 correct?  
 4 A Over those five years, plus  
 5 the damage to my reputation over those  
 6 five years.  
 7 Q Yeah. The question I'm  
 8 trying to get at, Mr. Capogrosso, is why  
 9 do you put the value of the damage of  
 10 your reputation as the same of the value  
 11 of five years of your expense -- of your  
 12 income or your billings rather?  
 13 A Well, that was the five  
 14 years I was not able to -- the damage to  
 15 my reputation for those five years I was  
 16 not present and being able to do this  
 17 type of work, not being able to talk to  
 18 my clients, not being able to represent  
 19 my clients for those five years.  
 20 Q I guess my question is  
 21 what's the difference between your  
 22 reputational claims and the future  
 23 prospective revenue that you could be --  
 24 that you also claim?  
 25 A Revenue is one thing.

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1 M.H. Capogrosso  
 2 Damage to -- I might not be able to get  
 3 that revenue ever again counsel. I might  
 4 not ever be able to generate any type of  
 5 revenue in this community or in any TVB  
 6 in New York. I might not be able to  
 7 generate that revenue again.  
 8 Now that is for a jury to  
 9 decide as to what the damage to my  
 10 reputation is, a jury to decide how these  
 11 defendants should be punished. I have  
 12 given you figures. I have told you the  
 13 total amount of revenue I brought in, the  
 14 amount of months, what it breaks down per  
 15 month. I've given you my figures. A  
 16 jury needs to make those determinations,  
 17 but that's how I made it, the five years  
 18 I've been out, the value to my reputation  
 19 that I don't think I'll be able to get  
 20 many more clients in the Brooklyn  
 21 community because of this and the money  
 22 which I lost because I was not able to  
 23 work for the Brooklyn community during  
 24 this period of time.  
 25 Q So let me ask you -- let me

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1 M.H. Capogrosso  
 2 ask the question a different way. If  
 3 your reputation had not been harmed at  
 4 all and you had continued practicing in  
 5 the TVB, would you have -- you would have  
 6 continued making money at that \$8,181 per  
 7 month or you would have continued --  
 8 sorry. Let me withdraw the question and  
 9 phrase it a different way.  
 10 If you had not had your  
 11 reputation damaged at all, isn't it the  
 12 case that you would have just continued  
 13 making the same amount of money you were  
 14 making before you were expelled?  
 15 A Well, I don't know that. I  
 16 can't assume that. I can't assume it. I  
 17 may have made more. I may have made  
 18 less. I don't know. I probably would  
 19 have made more because people liked me.  
 20 My clients liked me. My clients really  
 21 liked me.  
 22 I probably would have  
 23 brought even more money in, which is the  
 24 reason some of these attorneys down there  
 25 wanted me out. It's a very competitive

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1 M.H. Capogrosso  
 2 business this ticket broker, this ticket  
 3 business. We are all vying for the  
 4 same -- the same ticket. There's only so  
 5 many tickets written. It's a very  
 6 competitive business with the attorneys.  
 7 So my reputation was growing  
 8 and I probably would have made more.  
 9 Q So let me ask you, do you  
 10 have any basis to believe or any evidence  
 11 for the proposition that you would have  
 12 made more money in the future?  
 13 A My clients liked me. My  
 14 reputation was good at that point. I  
 15 reestablished my reputation. I was  
 16 getting -- I was getting, you know,  
 17 clients, you know. I don't know. People  
 18 liked me. My clients liked me.  
 19 Q And how do you know that  
 20 your reputation was damaged?  
 21 A Nobody is going to hire me  
 22 anymore when you -- I had to call 850  
 23 clients, I gave you my calendar, 850  
 24 clients and tell them I can't show up.  
 25 You took my money, Counsel, why aren't



<p style="text-align: right;">Page 134</p> <p>1 M.H. Capogrosso</p> <p>2 you here? I had to explain it to 850</p> <p>3 clients.</p> <p>4 I can't tell you why. I</p> <p>5 have no idea. I was given nothing in</p> <p>6 writing. I was told by Danielle Calvo to</p> <p>7 leave and told by Ida Traschen I'm not</p> <p>8 allowed. I was given nothing in writing.</p> <p>9 I have nothing to tell them. I was given</p> <p>10 nothing by your office. I have nothing</p> <p>11 to tell my clients. I don't know why. I</p> <p>12 have no reason. I was told to leave.</p> <p>13 Q All right.</p> <p>14 A So my reputation -- so my</p> <p>15 reputation has been damaged.</p> <p>16 Q But you were still able to</p> <p>17 get jobs in the legal community. You</p> <p>18 said you represented clients on dozens of</p> <p>19 cases, personal injury cases, criminal</p> <p>20 cases and other cases; isn't that</p> <p>21 correct?</p> <p>22 A It took me a while to get a</p> <p>23 job. They're not easy to find,</p> <p>24 especially as you get older. They're not</p> <p>25 easy to find. It took me a year to find</p>	<p style="text-align: right;">Page 136</p> <p>1 M.H. Capogrosso</p> <p>2 yes, it was ruined. In terms of the</p> <p>3 employers, no, it was not ruined because</p> <p>4 I was never asked.</p> <p>5 Q So can you specifically</p> <p>6 identify any economic harm that you've</p> <p>7 caused -- that you've suffered based on</p> <p>8 the damage to your reputation?</p> <p>9 A If I was to go back to</p> <p>10 practice this type of law, I'm not going</p> <p>11 to get as many cases as I did before. My</p> <p>12 name and reputation as somebody who shows</p> <p>13 up and argues a case and represents a</p> <p>14 client zealously, which is an oath I</p> <p>15 took, is not the same and it's not by my</p> <p>16 fault. It's not by my fault. I took an</p> <p>17 oath to zealously advocate and I could</p> <p>18 not zealously advocate because I was</p> <p>19 removed for no reason. No reasons were</p> <p>20 given to me. I got a 10 second phone</p> <p>21 call from Ida Traschen.</p> <p>22 Q Okay. But so the question</p> <p>23 was can you specifically identify any</p> <p>24 economic harm that has been caused by the</p> <p>25 damage to your reputation?</p>
<p style="text-align: right;">Page 135</p> <p>1 M.H. Capogrosso</p> <p>2 the first job and then Jiang was nice,</p> <p>3 then Jiang's office, but it's not easy,</p> <p>4 it is not and it's not --</p> <p>5 Q Did you --</p> <p>6 A I liked -- I liked doing</p> <p>7 what I did.</p> <p>8 Q But your reputation --</p> <p>9 A People my age are retiring,</p> <p>10 retiring at this age. I like to work and</p> <p>11 it's not easy getting a job at this age.</p> <p>12 Q Your reputation didn't</p> <p>13 prevent you from getting these jobs</p> <p>14 though, the one in the Perla firm and</p> <p>15 then the one at the Jiang firm; is that</p> <p>16 correct?</p> <p>17 A I had to leave this type</p> <p>18 of -- well, they didn't know about this,</p> <p>19 my reputation. They didn't know about</p> <p>20 this lawsuit or that I didn't show up on</p> <p>21 cases, I wasn't allowed to show up.</p> <p>22 Neither one of them asked me about this.</p> <p>23 I would have told them if they did, but</p> <p>24 they didn't ask me.</p> <p>25 But in terms of the clients,</p>	<p style="text-align: right;">Page 137</p> <p>1 M.H. Capogrosso</p> <p>2 A I'm not able to generate the</p> <p>3 income that I was generating at the</p> <p>4 Brooklyn TVB and I showed you the revenue</p> <p>5 I was bringing in.</p> <p>6 Q But is that because you're</p> <p>7 not practicing at the Brooklyn TVB or is</p> <p>8 that because of the damage to your</p> <p>9 reputation?</p> <p>10 A Because I'm not working at</p> <p>11 the Brooklyn TVB and because of the</p> <p>12 damage to my reputation. No one is ever</p> <p>13 going to give me a case again down there,</p> <p>14 nobody.</p> <p>15 Q Because you --</p> <p>16 A Nobody is going to give me a</p> <p>17 case.</p> <p>18 Q Because you can't practice</p> <p>19 there?</p> <p>20 A I can't practice there and</p> <p>21 if I could they still wouldn't hire me.</p> <p>22 Q So it's more a contingent</p> <p>23 thing in the event that you were to be</p> <p>24 reinstated?</p> <p>25 A Listen, my -- my reputation</p>

<p style="text-align: right;">Page 138</p> <p>1 M.H. Capogrosso</p> <p>2 as an attorney has been damaged. I have</p> <p>3 to explain this removal from the Brooklyn</p> <p>4 TVB in 50 states in the United States if</p> <p>5 I decide to go practice in any one of</p> <p>6 these states, 50. In federal court, I</p> <p>7 have to explain this. Immigration court,</p> <p>8 I have to explain this. If I decide to</p> <p>9 go down to the US PTO patent court, I</p> <p>10 have to explain this.</p> <p>11 That's the damage to my name</p> <p>12 and reputation. I have to explain this</p> <p>13 every place I go down the road and every</p> <p>14 court I seek admittance to I have to</p> <p>15 explain it. You put a number on it. I'm</p> <p>16 low. This number should be much higher.</p> <p>17 You have to explain this when you try to</p> <p>18 seek admission to another state court</p> <p>19 someplace or to your federal court, the</p> <p>20 Eastern District court, try to.</p> <p>21 I was removed without an</p> <p>22 explanation as to what happened. A 10</p> <p>23 second phone call from Ida Traschen, from</p> <p>24 somebody, a clerk who didn't even look at</p> <p>25 the videotape. That's the damage --</p>	<p style="text-align: right;">Page 140</p> <p>1 M.H. Capogrosso</p> <p>2 case. I didn't talk to the judges</p> <p>3 outside the courtroom. You're not</p> <p>4 allowed to.</p> <p>5 Q So you don't know if you</p> <p>6 were liked and respected by the judges --</p> <p>7 A I didn't --</p> <p>8 Q -- is that correct?</p> <p>9 A I cared what my clients</p> <p>10 thought. I cared what my clients</p> <p>11 thought. I argued a tough case. I</p> <p>12 wasn't trying to please a judge. I was</p> <p>13 trying to win my client's case. I was</p> <p>14 not trying to please the judge.</p> <p>15 Q I understand that,</p> <p>16 Mr. Capogrosso, but the question was a</p> <p>17 little narrower. Do you know if the</p> <p>18 judges liked and respected you?</p> <p>19 A No, I don't. I don't know.</p> <p>20 I really don't care.</p> <p>21 Q Okay.</p> <p>22 A I really don't care. I did</p> <p>23 what I had to do for my clients. Whether</p> <p>24 a judge liked me or not --</p> <p>25 Q Okay?</p>
<p style="text-align: right;">Page 139</p> <p>1 M.H. Capogrosso</p> <p>2 Q So how would you --</p> <p>3 A -- to my reputation.</p> <p>4 Q How would you describe your</p> <p>5 reputation while you were practicing at</p> <p>6 the TVB?</p> <p>7 A My clients loved me. I sent</p> <p>8 you my reviews. They loved me. Police</p> <p>9 officers didn't like me. I argued a very</p> <p>10 tough case. The other attorneys didn't</p> <p>11 like me, I was competition, I know that.</p> <p>12 But my clients -- the clerks didn't love</p> <p>13 me, I know that, too, because I wasn't</p> <p>14 giving them gifts and money and buying</p> <p>15 them breakfast, I understand that.</p> <p>16 But my clients loved me. I</p> <p>17 argued every case.</p> <p>18 Q Did the ALJs like you?</p> <p>19 A I don't know. I didn't</p> <p>20 associate with judges. You're not</p> <p>21 allowed to. There's a rule about that.</p> <p>22 There's a rule you're not supposed to</p> <p>23 talk to judges outside a courtroom.</p> <p>24 Whether they liked me or not, I really</p> <p>25 didn't care. I know I argued a good</p>	<p style="text-align: right;">Page 141</p> <p>1 M.H. Capogrosso</p> <p>2 A -- I wasn't trying to seek</p> <p>3 their favor.</p> <p>4 Q And the clerks, did the</p> <p>5 clerks like and respect you?</p> <p>6 A Clerks, I don't think they</p> <p>7 liked me, no. I told you I wasn't giving</p> <p>8 them any money. I wasn't giving them --</p> <p>9 Q Why not?</p> <p>10 A -- a piece of the action.</p> <p>11 No, I don't think the clerks</p> <p>12 liked me. No, I think maybe one clerk</p> <p>13 liked me. I treated them all nicely and</p> <p>14 respectfully. I might have been loud. I</p> <p>15 have a loud voice when I talk. I never</p> <p>16 verbally abused anyone. Never called --</p> <p>17 never made a racial threat, verbally</p> <p>18 abused anyone.</p> <p>19 I would argue zealously for</p> <p>20 my clients, I wanted the best for them,</p> <p>21 but I never verbally abused anyone.</p> <p>22 Q And the other attorneys, did</p> <p>23 they like you?</p> <p>24 A The other attorneys? We</p> <p>25 were in a competitive business, no. No,</p>

<p style="text-align: right;">Page 142</p> <p>1 M.H. Capogrosso</p> <p>2 they didn't like me. Yaakov Brody told</p> <p>3 me to go fuck myself, I'm a Jew hater</p> <p>4 anti-Semite because I was making too much</p> <p>5 money in his presence. He had no other</p> <p>6 reason for saying it.</p> <p>7 When you go through all the</p> <p>8 complaints written against me, there's</p> <p>9 not one from a client or a motorist that</p> <p>10 I made a racial epi -- a racial remark or</p> <p>11 an anti-Semitic remark, not one from a</p> <p>12 client. There's a couple complaints</p> <p>13 about a fee, that I didn't show up or</p> <p>14 something about a fee, but not one that I</p> <p>15 made a racial remark or an inappropriate</p> <p>16 remark to a client or I didn't show up on</p> <p>17 a case.</p> <p>18 Now Yaakov Brody didn't like</p> <p>19 me and I'm sure --</p> <p>20 Q So is it your contention --</p> <p>21 A Yes.</p> <p>22 Q I apologize. I didn't mean</p> <p>23 to cut you off, Mr. Capogrosso.</p> <p>24 A Go ahead. I'm listening.</p> <p>25 Q So is it your contention</p>	<p style="text-align: right;">Page 144</p> <p>1 M.H. Capogrosso</p> <p>2 Q How --</p> <p>3 A I'll go through them one by</p> <p>4 one. Put them up, let's go through them.</p> <p>5 I'll respond to every complaint written</p> <p>6 against me. I will respond to every</p> <p>7 complaint written against me, I will</p> <p>8 respond to. I'm glad I have the</p> <p>9 opportunity. I --</p> <p>10 Q So that is where we are</p> <p>11 going to next. Hold on one quick second</p> <p>12 while I bring up the first of them.</p> <p>13 Mr. Capogrosso, can you see</p> <p>14 the exhibit that I've just brought up?</p> <p>15 A Yeah. April 1. Yes, not</p> <p>16 the whole part of it. I can only see the</p> <p>17 top portion of it, so I'd like to read --</p> <p>18 MR. THOMPSON: Madam Court</p> <p>19 Reporter, can you see it?</p> <p>20 MR. VIDEOGRAPHER: This is</p> <p>21 the videographer. I see it, Counsel.</p> <p>22 A I can only see a portion of</p> <p>23 it.</p> <p>24 Q Yeah. There's more down</p> <p>25 here.</p>
<p style="text-align: right;">Page 143</p> <p>1 M.H. Capogrosso</p> <p>2 that the complaints about you are made</p> <p>3 up?</p> <p>4 A There's no substance. No,</p> <p>5 they're not made up. They're real. I</p> <p>6 saw them. I was given no opportunity to</p> <p>7 respond to them. The first time I saw</p> <p>8 these complaints was -- well, I was given</p> <p>9 no opportunity to respond. I might have</p> <p>10 seen -- I know I saw them in response to</p> <p>11 the --</p> <p>12 Q Let me rephrase the</p> <p>13 question.</p> <p>14 A I saw the complaints in</p> <p>15 response to the motion to dismiss, the</p> <p>16 first time I saw them.</p> <p>17 Q Let me rephrase the</p> <p>18 question. We are not -- Mr. Capogrosso,</p> <p>19 if I may, obviously there's not a</p> <p>20 question as to whether the complaints are</p> <p>21 real or not, but is it your contention</p> <p>22 that the allegations in the complaints</p> <p>23 are untruthful?</p> <p>24 A Yes, absolutely. I was</p> <p>25 given no --</p>	<p style="text-align: right;">Page 145</p> <p>1 M.H. Capogrosso</p> <p>2 MR. THOMPSON: I just wanted</p> <p>3 to check with Ms. MacDonald because I</p> <p>4 know you just swapped in. Are you</p> <p>5 seeing the exhibits okay?</p> <p>6 MS. REPORTER: Sorry. I was</p> <p>7 on mute. Yes.</p> <p>8 MR. THOMPSON: Okay. Good.</p> <p>9 Q So, Mr. Capogrosso, do you</p> <p>10 recognize this document?</p> <p>11 A Well, I'd like to see the</p> <p>12 bottom of it. I do recognize it,</p> <p>13 absolutely.</p> <p>14 Q Sure.</p> <p>15 A All right. Go ahead. Yes.</p> <p>16 I know exactly what this is.</p> <p>17 Q And this is, just for the</p> <p>18 record, this is a document that you</p> <p>19 produced at number P-80; is that correct?</p> <p>20 A I've produced it. I think</p> <p>21 you produced it. You had this. I've</p> <p>22 also given it back to you. Yes, it's</p> <p>23 been produced.</p> <p>24 Q And you said you recognize</p> <p>25 it. What is this document?</p>

<p style="text-align: right;">Page 146</p> <p>1 M.H. Capogrosso</p> <p>2 A Well, this is the date with</p> <p>3 Tanya Rubinowitz. This is the lawyer,</p> <p>4 the woman calling herself a lawyer in</p> <p>5 Judge Gelbstein's courtroom and this is</p> <p>6 written by a clerk, I'm not sure who that</p> <p>7 is, Perez, one of the clerks there and it</p> <p>8 happened on 2009.</p> <p>9 This is after I called the</p> <p>10 District Attorney and I said we have a</p> <p>11 woman down here calling herself a lawyer</p> <p>12 on a repeated basis and people asked me</p> <p>13 where's Tanya, the lawyer. I said she's</p> <p>14 not a lawyer.</p> <p>15 And she approaches me that</p> <p>16 day and says did you call -- did you call</p> <p>17 the District Attorney? I said yes, I</p> <p>18 did, I admitted it to her and then she</p> <p>19 starts yelling and berating me and I</p> <p>20 tried walking away from her.</p> <p>21 Now, this clerk -- this</p> <p>22 happened near the attorney's room. I</p> <p>23 know exactly where it happened. Between</p> <p>24 the attorney's room and the clerks, it's</p> <p>25 at least 60 feet.</p>	<p style="text-align: right;">Page 148</p> <p>1 M.H. Capogrosso</p> <p>2 telling her to get away from me. I</p> <p>3 didn't yell any profanity because you</p> <p>4 know what, they're not listed there. And</p> <p>5 what obscenity was used? The clerk</p> <p>6 doesn't put it down.</p> <p>7 I was telling her to get</p> <p>8 away from me, but I yelled no profanity</p> <p>9 and no obscenity. You can't make an</p> <p>10 allegation that I used a profanity or</p> <p>11 obscenity if you don't tell me what it is</p> <p>12 and I used none. I never talked to a</p> <p>13 woman like that, never. I treat women</p> <p>14 very respectful.</p> <p>15 I was loud, that I agree I</p> <p>16 was loud, but I did not use a profanity</p> <p>17 or obscenity and none is listed. Tell me</p> <p>18 which one I used.</p> <p>19 Q Mr. Perez also writes that</p> <p>20 "Mr. Capogrosso was sitting down. I</p> <p>21 observed him getting up" -- "get up from</p> <p>22 his seat and approach Ms. Rabinovich</p> <p>23 walking fast and hard toward her when he</p> <p>24 bumped real hard into her as he tried to</p> <p>25 pass by her, which was very unnecessary</p>
<p style="text-align: right;">Page 147</p> <p>1 M.H. Capogrosso</p> <p>2 But that's what happened.</p> <p>3 She came at me yelling and screaming why</p> <p>4 did you call the District Attorney. I</p> <p>5 admitted that I did. I could not have</p> <p>6 admitted to it. I could have said I</p> <p>7 didn't call her, right. I could have</p> <p>8 just walked away, but I didn't. I</p> <p>9 admitted the truth and I tried walking</p> <p>10 away. That's what happened.</p> <p>11 I wasn't charged. I wasn't</p> <p>12 arrested. I didn't do anything wrong but</p> <p>13 tried to get away from the situation and</p> <p>14 telling the truth. I told her what</p> <p>15 happened and what I did.</p> <p>16 Q So in this statement from</p> <p>17 Mr. Perez he writes that he saw -- "He</p> <p>18 observed and heard Mr. Capogrosso</p> <p>19 screaming and yelling profanities and</p> <p>20 obscenities at Ms. Rabinovich, Tanya."</p> <p>21 Is that true?</p> <p>22 A No, it's not. There's not</p> <p>23 one --</p> <p>24 Q You did not?</p> <p>25 A No. I did not. I was</p>	<p style="text-align: right;">Page 149</p> <p>1 M.H. Capogrosso</p> <p>2 given he had plenty of room to walk</p> <p>3 around her."</p> <p>4 Is that true?</p> <p>5 A I did get up. She's right</p> <p>6 in my face, right about three feet away</p> <p>7 from me, right on top of me. I did get</p> <p>8 up and walk away. I don't recall bumping</p> <p>9 into her, no. I would never hit a woman,</p> <p>10 never, never.</p> <p>11 Q Would you bump --</p> <p>12 A I don't -- she was like</p> <p>13 right on top of me, maybe three feet</p> <p>14 away, pointing her finger at me and</p> <p>15 yelling at me in Russian and some other</p> <p>16 nonsense, yelling and screaming at me.</p> <p>17 Did I bump into her, no. I</p> <p>18 would never hit a woman. But I did tell</p> <p>19 her to get away from me and I did admit</p> <p>20 to what I did and she was upset, but she</p> <p>21 didn't --</p> <p>22 Q Did you --</p> <p>23 A She was upset.</p> <p>24 Q Did you make contact with</p> <p>25 her in any way?</p>



<p style="text-align: right;">Page 150</p> <p>1 M.H. Capogrosso</p> <p>2 A No, not that I recall, no.</p> <p>3 She would have filed a police report</p> <p>4 against me that I hit her and none was</p> <p>5 filed. I do not recall hitting her,</p> <p>6 absolutely not.</p> <p>7 Q So I'll tell you,</p> <p>8 Mr. Capogrosso, we are going to look at a</p> <p>9 number of reports and this has some</p> <p>10 similarities to some other ones in there</p> <p>11 will be a number of reports that say that</p> <p>12 you were yelling and shouting obscenities</p> <p>13 and there will be a number of reports</p> <p>14 saying that you bump into people and then</p> <p>15 indicate that it's not on purpose.</p> <p>16 A Well --</p> <p>17 Q Is there any truth to that?</p> <p>18 A Well, you can write and say</p> <p>19 whatever you want. You can write and say</p> <p>20 whatever you want. You know, I was never</p> <p>21 arrested on anything. I didn't yell any</p> <p>22 obscenity. You have to give me the</p> <p>23 obscenity I used. You can make any</p> <p>24 allegation you want at me. You have to</p> <p>25 prove it. You have to have some type of</p>	<p style="text-align: right;">Page 152</p> <p>1 M.H. Capogrosso</p> <p>2 So let's just ask here,</p> <p>3 Mr. Perez who wrote this statement, is he</p> <p>4 lying?</p> <p>5 A I did not bump into anybody.</p> <p>6 I did not hit anybody. I did walk away</p> <p>7 from this woman who approached me,</p> <p>8 approached me and asked me if I called</p> <p>9 the DA on her and I said yes, I did, but</p> <p>10 that story doesn't get --</p> <p>11 Q So --</p> <p>12 A -- that story doesn't get</p> <p>13 told.</p> <p>14 Q So Mr. Capogrosso that</p> <p>15 wasn't quite the question. The question</p> <p>16 is is Mr. Perez lying?</p> <p>17 A That I used an obscenity,</p> <p>18 absolutely, absolutely.</p> <p>19 Q Why would he lie?</p> <p>20 A They like Tanya. I told you</p> <p>21 this already. Tanya was doing business</p> <p>22 with the clerks. I saw Tanya at the</p> <p>23 clerk's counter rescheduling cases as if</p> <p>24 she was a lawyer. Maybe she was entering</p> <p>25 guilty pleas at the counter as if she was</p>
<p style="text-align: right;">Page 151</p> <p>1 M.H. Capogrosso</p> <p>2 corroboration. Is anybody corroborating</p> <p>3 this, Ms. Perez, that they saw me?</p> <p>4 Q Well --</p> <p>5 A Was there a police report</p> <p>6 written against me?</p> <p>7 Q Well, this is not a, you</p> <p>8 know, this is not a statement in a court</p> <p>9 of law. This is just a complaint saying</p> <p>10 what happened; isn't it?</p> <p>11 A Well, where's my affidavit</p> <p>12 in response? Where's Judge Gelbstein</p> <p>13 giving me a chance to respond to this so</p> <p>14 we get right to the heart of the matter</p> <p>15 in 2009?</p> <p>16 Q So this person L. Perez,</p> <p>17 Jr., do you know who that is?</p> <p>18 A No.</p> <p>19 Q It says MVR 1. Do you know</p> <p>20 what an MVR 1 is?</p> <p>21 A No.</p> <p>22 Q I would suspect that it</p> <p>23 means Motor Vehicle Representative 1,</p> <p>24 which is the pay grade for the people who</p> <p>25 work as clerks behind the counter.</p>	<p style="text-align: right;">Page 153</p> <p>1 M.H. Capogrosso</p> <p>2 a lawyer. She had a case load.</p> <p>3 She had an office right</p> <p>4 outside the DMV and they were doing work</p> <p>5 for her for some reason, which I don't</p> <p>6 know, but, you know, it wasn't for free,</p> <p>7 so they liked Tanya.</p> <p>8 Q And so you think Perez was</p> <p>9 lying because Ms. Rabinovich bribed the</p> <p>10 clerks --</p> <p>11 A That's not --</p> <p>12 Q -- is that correct?</p> <p>13 A I don't know. I don't know.</p> <p>14 I know I didn't bump into anybody. I</p> <p>15 know she was right on top of me. I know</p> <p>16 I don't use obscenities with women,</p> <p>17 absolutely not. There's not one --</p> <p>18 Q Okay.</p> <p>19 A -- from a motorist. If you</p> <p>20 go through all the complaints against me,</p> <p>21 they're all by clerks. Not one motorist</p> <p>22 or client has made a complaint against me</p> <p>23 that I used an obscenity. You go through</p> <p>24 all my complaints.</p> <p>25 Q Well, we'll see some --</p>

<p style="text-align: right;">Page 154</p> <p>1 M.H. Capogrosso</p> <p>2 A You go through all my</p> <p>3 complaints.</p> <p>4 Q Well, we'll see some of</p> <p>5 those as we go forward. I'm going to</p> <p>6 bring up another document here.</p> <p>7 MR. THOMPSON: Oh, actually</p> <p>8 before I do, Madam Court Reporter,</p> <p>9 Ms. MacDonald, can I ask you to</p> <p>10 please mark that as Exhibit 3?</p> <p>11 Ms. MacDonald?</p> <p>12 MS. REPORTER: Sure. I</p> <p>13 usually don't like to speak while</p> <p>14 you're videotaping so I've just been</p> <p>15 nodding, but, yes, I'm noting in the</p> <p>16 index that it will be marked.</p> <p>17 MR. THOMPSON: Okay. Good.</p> <p>18 MS. REPORTER: Are you</p> <p>19 e-mailing -- did you e-mail all of</p> <p>20 these exhibits to the other reporter?</p> <p>21 MR. THOMPSON: Well, we</p> <p>22 e-mailed all of them to Veritext</p> <p>23 yesterday and we got a receipt, a</p> <p>24 confirmation e-mail and I know that</p> <p>25 the other reporter had them.</p>	<p style="text-align: right;">Page 156</p> <p>1 M.H. Capogrosso</p> <p>2 bumped into her because I didn't bump</p> <p>3 into her. That's Roy's version of the</p> <p>4 same story. I'm telling the woman to get</p> <p>5 away from me.</p> <p>6 Q So this is a complaint</p> <p>7 written by Roy Tucci; correct?</p> <p>8 A Yeah, Roy I know. He's one</p> <p>9 of the clerks. There's no indication --</p> <p>10 Q Does --</p> <p>11 A Wait, you've got to let me</p> <p>12 finish.</p> <p>13 Q Sure.</p> <p>14 A There's no indication I</p> <p>15 verbally abused or I said any</p> <p>16 obscenities. Now they both observed the</p> <p>17 same incident. What Roy states is I told</p> <p>18 Tanya to get away from me, which I did.</p> <p>19 MR. THOMPSON: So -- well,</p> <p>20 first of all, Madam, Ms. MacDonald,</p> <p>21 can I ask you to please mark this as</p> <p>22 Exhibit 4?</p> <p>23 (The above-referred-to</p> <p>24 statement was marked as Exhibit 4 for</p> <p>25 identification as of this date.)</p>
<p style="text-align: right;">Page 155</p> <p>1 M.H. Capogrosso</p> <p>2 MS. REPORTER: Okay.</p> <p>3 (The above-referred-to</p> <p>4 statement was marked as Exhibit 3 for</p> <p>5 identification as of this date.)</p> <p>6 Q Mr. Capogrosso, I'm going to</p> <p>7 bring up another exhibit --</p> <p>8 A Yes.</p> <p>9 Q -- and share my screen here.</p> <p>10 Mr. Capogrosso, do you see</p> <p>11 the exhibit?</p> <p>12 A Yes, yes. I remember that</p> <p>13 one. April, yes.</p> <p>14 Q And you see this one was</p> <p>15 produced by you and marked P-82; correct?</p> <p>16 A Yes.</p> <p>17 Q And so what is this</p> <p>18 document?</p> <p>19 A Well, this is the same</p> <p>20 incident and look what Roy says. Look</p> <p>21 what Roy says. He was seated on the</p> <p>22 bench. He stated get away from me, which</p> <p>23 is what I'm telling Tanya. Then he rose</p> <p>24 up and told Tanya to get away.</p> <p>25 There's no indication I</p>	<p style="text-align: right;">Page 157</p> <p>1 M.H. Capogrosso</p> <p>2 Q And, Mr. Capogrosso,</p> <p>3 Mr. Tucci does say that he heard a loud</p> <p>4 voice and that he saw you.</p> <p>5 A Well, I do speak loudly,</p> <p>6 yes.</p> <p>7 Q He then writes "He then rose</p> <p>8 and told Tanya the interpreter to get</p> <p>9 away. Mr. Capogrosso moved towards Tanya</p> <p>10 and they seemed to bump."</p> <p>11 A I didn't --</p> <p>12 Q "The noise continued" --</p> <p>13 A Go ahead, finish.</p> <p>14 Q So this is Mr. Tucci</p> <p>15 corroborating that you bumped into</p> <p>16 Ms. Rabinovich; isn't that correct?</p> <p>17 A She bumped into me. I'm</p> <p>18 trying to get away from her. She</p> <p>19 approaches me. She's right on top of me.</p> <p>20 I'm telling her to get away. She's</p> <p>21 yelling and screaming in Russian at me</p> <p>22 pointing her finger at me and I'm trying</p> <p>23 to get away from her.</p> <p>24 He doesn't indicate I bumped</p> <p>25 into her. He said they seemed to bump.</p>

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1 M.H. Capogrosso  
 2 Q Well, he said that you moved  
 3 toward Tanya. You'll see I'm  
 4 highlighting that language here. He says  
 5 that you moved toward her.  
 6 A She's right in front of me.  
 7 I'm trying to get away from this woman  
 8 who's yelling and screaming at me at the  
 9 top of her lungs.  
 10 Now, did anybody report that  
 11 she's yelling at me, no. "They seem to  
 12 bump." She's three feet away from me.  
 13 I'm trying to get away from her. That's  
 14 what happened.  
 15 Q Mr. Tucci says you're moving  
 16 towards her.  
 17 A She was in front of me.  
 18 Where do you want me to go? How do I get  
 19 away from the woman?  
 20 Q So is Mr. Tucci telling the  
 21 truth here?  
 22 A I tried walking away from  
 23 this woman.  
 24 Q I understand, but that's not  
 25 the question. The question is

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1 M.H. Capogrosso  
 2 Mr. Tucci telling the truth here?  
 3 A I don't recall touching this  
 4 woman at any point, at any point.  
 5 Q I understand that,  
 6 Mr. Capogrosso, but the question is is  
 7 Mr. Tucci lying in this statement?  
 8 A I don't know if he's lying  
 9 or not. Maybe that's what he thought he  
 10 saw. I don't remember hitting this or  
 11 touching this woman.  
 12 Q Is it possible that you did?  
 13 A I don't recall. I've never  
 14 hit or touched a woman like this in my  
 15 life, never. Bumping into somebody --  
 16 you're three feet away from me. Why are  
 17 you in my face? Why are you yelling and  
 18 screaming at me? How do I get away from  
 19 you at this point in time?  
 20 Q Is it possible you bumped  
 21 into her on purpose?  
 22 A Absolutely not. I would  
 23 never hit a woman in my life ever.  
 24 Q Mr. Tucci writes that "The  
 25 noise continued until our supervisor

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1 M.H. Capogrosso  
 2 Danielle Calvo intervened." Do you  
 3 remember what happened?  
 4 A She's yelling and screaming  
 5 at me in Russian, in Russian after I  
 6 admitted to her that I called the  
 7 District Attorney. She's yelling and  
 8 screaming in Russian at me. I don't know  
 9 what she was screaming.  
 10 Q So --  
 11 A And I like Russian women,  
 12 don't get me wrong, but I don't like a  
 13 Russian woman calling herself a lawyer  
 14 who's not. I didn't like that,  
 15 absolutely not.  
 16 Q Do you remember if --  
 17 A I did not bump into her.  
 18 Q So do you remember if your  
 19 bodies made contact at all?  
 20 A I've answered this. No, I  
 21 do not.  
 22 Q Okay. No, you don't  
 23 remember or no, it didn't happen?  
 24 A I would never -- I don't  
 25 recall bumping into this woman. No, I do

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1 M.H. Capogrosso  
 2 recall telling her to get away from me.  
 3 That's what I recall.  
 4 Q How big is Ms. Rabinovich?  
 5 A I don't recall. At that  
 6 point in time she was a nice 5'5" maybe.  
 7 Q And how tall are you,  
 8 Mr. Capogrosso?  
 9 A 5'10".  
 10 Q And are you a bigger guy,  
 11 are you a muscular guy?  
 12 A Oh, absolutely, I'm not  
 13 going to deny that. I work out every  
 14 day.  
 15 Q So you're, it's safe to say,  
 16 a lot more physically imposing than  
 17 Ms. Rabinovich was; is that correct?  
 18 A That's why I was trying to  
 19 move away from her. I'm 210. I'm 5'10",  
 20 210. That's why I'm trying to get away  
 21 from her.  
 22 Q All right.  
 23 A That's why I'm telling her  
 24 to get away from me.  
 25 Q Okay. Let's move on to the

<p style="text-align: right;">Page 162</p> <p>1 M.H. Capogrosso</p> <p>2 next document. I'll stop the Screen</p> <p>3 Share.</p> <p>4 MR. THOMPSON: And, Madam</p> <p>5 Court Reporter, that was Exhibit 4.</p> <p>6 Q I'm going to share another</p> <p>7 document here.</p> <p>8 Mr. Capogrosso, can you see</p> <p>9 this document?</p> <p>10 A Yeah.</p> <p>11 Q And what is this document?</p> <p>12 Do you recognize it?</p> <p>13 A Well, it's from Marisol. I</p> <p>14 know Marisol.</p> <p>15 Q And this document you</p> <p>16 produced and Bates stamped P-84; correct?</p> <p>17 A Yes.</p> <p>18 Q And so what is this specific</p> <p>19 document?</p> <p>20 A I guess it's her complaint</p> <p>21 about me that I was acting aggressively</p> <p>22 toward her.</p> <p>23 MR. THOMPSON: Okay.</p> <p>24 Ms. MacDonald, can I ask you to</p> <p>25 please mark this as Exhibit 5?</p>	<p style="text-align: right;">Page 164</p> <p>1 M.H. Capogrosso</p> <p>2 tickets that I needed for the day. Can I</p> <p>3 please have my tickets, thank you very</p> <p>4 much. That's all I said or did.</p> <p>5 Q Okay.</p> <p>6 A I did what was required to</p> <p>7 do.</p> <p>8 Q So --</p> <p>9 A Did I talk to her after work</p> <p>10 or during work or have conversations with</p> <p>11 her, no. I did my business at the</p> <p>12 counter or when I put the ticket in the</p> <p>13 courtroom. That was the extent of it.</p> <p>14 Hello, here's my ticket, thank you.</p> <p>15 Q So, Mr. Capogrosso,</p> <p>16 Ms. Cervoni writes that on June 9, 2009</p> <p>17 at approximately 9:45 a.m. she called a</p> <p>18 customer to her counter. "The motorist</p> <p>19 was accompany by Michael, who is the</p> <p>20 assistant of Mr. Capogrosso who's one of</p> <p>21 the lawyers who represents motorists at</p> <p>22 their hearings at Brooklyn South."</p> <p>23 Who is Michael?</p> <p>24 A Well, at that point in time</p> <p>25 we were allowed to have paralegals. He</p>
<p style="text-align: right;">Page 163</p> <p>1 M.H. Capogrosso</p> <p>2 (The above-referred-to</p> <p>3 statement was marked as Exhibit 5 for</p> <p>4 identification as of this date.)</p> <p>5 Q So, Mr. Capogrosso, who is</p> <p>6 Marisol Cervoni?</p> <p>7 A She's a clerk at the TVB,</p> <p>8 Brooklyn TVB.</p> <p>9 Q Did you have a good</p> <p>10 relationship with her?</p> <p>11 A She was a clerk. I just --</p> <p>12 I went to the counter and she helped me</p> <p>13 get the tickets for the day. She was a</p> <p>14 clerk. I wasn't trying to have a</p> <p>15 relationship with clerks. I wasn't</p> <p>16 trying to have a relationship. I was</p> <p>17 just trying to deal with her and to do my</p> <p>18 job.</p> <p>19 Q I understand,</p> <p>20 Mr. Capogrosso, but the question was did</p> <p>21 you have a good relationship with</p> <p>22 Ms. Cervoni?</p> <p>23 A I had a good relationship on</p> <p>24 a business level with all the clerks. I</p> <p>25 went up to the counter, I gave them my</p>	<p style="text-align: right;">Page 165</p> <p>1 M.H. Capogrosso</p> <p>2 would -- they were a lot of Russian</p> <p>3 clients down there. He was a paralegal</p> <p>4 that worked for me. He spoke Russian.</p> <p>5 He translated -- he translated clients</p> <p>6 who spoke Russian to English and helped</p> <p>7 in the courtroom when we needed</p> <p>8 translation.</p> <p>9 Q And you --</p> <p>10 A All the attorneys had a</p> <p>11 paralegal at that point.</p> <p>12 Q And did you employ him?</p> <p>13 A He was paid as an</p> <p>14 independent contractor.</p> <p>15 Q About how much did you pay</p> <p>16 him?</p> <p>17 A I don't know. It varied.</p> <p>18 It depends how many hours he put in.</p> <p>19 Q How much did you pay him per</p> <p>20 hour?</p> <p>21 A I don't recall.</p> <p>22 Q Do you have a ballpark</p> <p>23 estimate?</p> <p>24 A No. I don't recall. We</p> <p>25 paid him -- we paid him on a daily basis.</p>



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1 M.H. Capogrosso  
 2 I made sure he got paid every day for the  
 3 work he did.  
 4 Q And how long did you have an  
 5 assistant for --  
 6 A I don't recall.  
 7 Q -- or a paralegal?  
 8 A I don't recall how long.  
 9 You know, it must have been -- all the  
 10 other attorneys had them, so at some  
 11 point in time I was doing well, I said  
 12 let me take on and they all were using  
 13 them, so I did.  
 14 I don't recall the exact  
 15 amount of time. I know they were all  
 16 thrown out at one point in time because  
 17 there were accusations against them, so  
 18 they were thrown out of all the TVBs.  
 19 Q What --  
 20 A We weren't allowed to have  
 21 them anymore.  
 22 Q What were these accusations?  
 23 A I don't know exactly. As I  
 24 understand it, they were stealing,  
 25 stealing from motorists, stealing from

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1 M.H. Capogrosso  
 2 clients, stealing from lawyers, stealing  
 3 from each other.  
 4 Q Were there accusations  
 5 against Michael?  
 6 A No, no. Michael was a nice  
 7 guy, real nice guy.  
 8 Q And what was Michael's last  
 9 name?  
 10 A I don't remember, I really  
 11 don't, but he was a nice guy. He had a  
 12 brother --  
 13 Q Did you --  
 14 A His brother --  
 15 Q Did you ever --  
 16 A His brother worked for -- go  
 17 ahead.  
 18 Q Did you ever employ an  
 19 assistant other than Michael?  
 20 A His brother and I, when I  
 21 first came down, his brother was a  
 22 paralegal for Terry Horton. We became  
 23 friends. I forgot his name. Andy was  
 24 his brother.  
 25 But did I ever employ him,

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1 M.H. Capogrosso  
 2 no. He worked for -- Andy worked for  
 3 Eugene Gabase(phonetic).  
 4 Q So Michael is the only  
 5 assistant --  
 6 A Yes.  
 7 Q -- that you employed; is  
 8 that correct?  
 9 A As I recall, yes, but Andy  
 10 and I were friends.  
 11 Q All right. So in here, in  
 12 Exhibit 5 you see Ms. Cervoni writes that  
 13 the motorist handed her driver's license.  
 14 "And Michael called Mr. Capogrosso over  
 15 to my window. Mr. Capogrosso thinking  
 16 there was a problem approached my counter  
 17 and aggressively and belligerently began  
 18 yelling at me."  
 19 Do you recall this incident?  
 20 A I don't think I was  
 21 aggressive or belligerent. I might have  
 22 been loud. I do speak loudly. I want  
 23 people to hear me when I speak. I think  
 24 maybe she's a little oversensitive.  
 25 Maybe I was trying to understand what was

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1 M.H. Capogrosso  
 2 going on because I cared about my client  
 3 and what was going on and I actually give  
 4 a damn about my client and their  
 5 licenses.  
 6 So I was trying to get to  
 7 the heart of the matter, but I was not  
 8 belligerent or aggressive. Maybe I was  
 9 loud.  
 10 Q So do you recall this  
 11 specific incident?  
 12 A I recall Michael calling me  
 13 over, yeah. I never cursed or insulted  
 14 the woman, absolutely not, absolutely  
 15 not. She doesn't put down what curse or  
 16 insult I used. You make general  
 17 allegations --  
 18 Q Does she have to?  
 19 A Well, yeah. If you make an  
 20 accusation somebody is cursing or  
 21 insulting me, tell me what I said. Tell  
 22 me exactly. I might have been loud.  
 23 Listen, I am loud. I want people to hear  
 24 me when I speak. But tell me what word I  
 25 used to curse or what word I used to



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1 M.H. Capogrosso  
 2 insult. I'd like to know.  
 3 I don't curse or insult  
 4 women. It's not something I do.  
 5 Q Does it make her wrong if  
 6 she didn't list the curse word?  
 7 A Absolutely, because I want  
 8 to know what I'm being accused of. Don't  
 9 accuse somebody of something if you can't  
 10 stand behind it. Tell me what curse word  
 11 I used and what word I used to insult  
 12 you. I want to know that.  
 13 Q So you --  
 14 A Tell her that.  
 15 Q So you admit that you were  
 16 speaking with her, but you say you were  
 17 not belligerent --  
 18 A I wasn't --  
 19 Q -- is that correct?  
 20 A I wasn't belligerent. I was  
 21 speaking loudly as I'm speaking to you.  
 22 I speak in a loud voice. If she took it  
 23 wrongly, I'm sorry.  
 24 Q As you said, Mr. Capogrosso,  
 25 you're a big guy. You're an athletic

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1 M.H. Capogrosso  
 2 guy. Is it possible -- and when you  
 3 speak loudly to someone, particularly a  
 4 woman, isn't it possible that they are  
 5 going to view that as aggressive and  
 6 belligerent?  
 7 A I don't know how you view  
 8 it. I don't know how you view it. View  
 9 it anyway you like. I wasn't cursing. I  
 10 wasn't insulting. I might have been  
 11 loud. I might have been talking loudly  
 12 because I'm trying to get to the heart of  
 13 the matter and help my client out, but  
 14 how it's interpreted, I don't know.  
 15 Q So she writes that she  
 16 assured you there was no problem and that  
 17 she had already printed out the ticket  
 18 for your client, quote, "but at that  
 19 point he was already out of control and  
 20 continued yelling, cursing and insulting  
 21 me."  
 22 Is that true?  
 23 A No. I never cursed or  
 24 yelled or insulted, absolutely not.  
 25 Absolutely not.

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1 M.H. Capogrosso  
 2 Q So --  
 3 A Absolutely not.  
 4 Q So is Ms. Cervoni lying?  
 5 A Yes. When she says I'm  
 6 cursing and insulting and yelling, yes.  
 7 I might have been loud, but not cursing  
 8 and insulting.  
 9 She doesn't put --  
 10 Q Why would she --  
 11 A -- down what I said.  
 12 Q Why would she lie?  
 13 A I don't know.  
 14 Q What motivation would she  
 15 have to lie about you?  
 16 A Like I said, maybe I wasn't  
 17 giving her gifts and presents and money  
 18 like the other clerks were getting. The  
 19 other attorneys were giving these clerks  
 20 money for Christmas, buying them  
 21 breakfast.  
 22 Q Did --  
 23 A You got to let me finish.  
 24 Buying them breakfast in the  
 25 morning, giving them parties. One of the

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1 M.H. Capogrosso  
 2 attorneys says how much money are you  
 3 giving the clerks for Christmas? I was  
 4 not doing this. I was there to do a job,  
 5 that's it. I was not trying to --  
 6 Q So is --  
 7 A -- endear myself to the  
 8 clerks, I was not in any way. To me  
 9 there was an appearance of impropriety if  
 10 I tried to endear myself to these clerks  
 11 by giving them gifts or buying them  
 12 breakfast.  
 13 Q Did --  
 14 A You got to let me finish.  
 15 Buying them breakfast --  
 16 Q Sure.  
 17 A -- or giving them cash as  
 18 the other attorneys were doing. It was  
 19 an appearance. I didn't want to do it.  
 20 I just wanted to do my job.  
 21 Was I loud? I definitely  
 22 probably was loud, I'll admit to that.  
 23 Was I cursing and insulting, absolutely  
 24 not.  
 25 Q Mr. Capogrosso, is it your

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1 M.H. Capogrosso  
 2 testimony that Ms. Cervoni made this up  
 3 because you weren't giving money to the  
 4 clerks?  
 5 A She's not telling the truth  
 6 there. I did not curse and I didn't  
 7 insult. I don't know why. I'm a zealous  
 8 advocator in this court, that's what I  
 9 took an oath to do, zealously advocate.  
 10 I took an oath when I got sworn in.  
 11 That's what I do.  
 12 I didn't curse at --  
 13 Q Do you think Ms. Cervoni  
 14 wanted to see you gone from the TVB?  
 15 A I don't know. I don't know.  
 16 I think we became friends afterwards. I  
 17 think we became friends right before we  
 18 left. That's why I wanted to depose her.  
 19 I think she really liked me at one point  
 20 in time. She's a very beautiful woman,  
 21 Marisol and I think at one point -- she's  
 22 a nice woman and I think at one point we  
 23 became friends.  
 24 But was I trying to endear  
 25 myself to any of these clerks, no. I was

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1 M.H. Capogrosso  
 2 trying to do my job. That's all I'm  
 3 required to do.  
 4 Q She writes that -- she  
 5 writes that "The supervisors, Geri,  
 6 Danielle and John all came out to see  
 7 what the commotion was and to resolve the  
 8 situation, but he" and I assume that  
 9 means you "refused to listen to reason or  
 10 leave my counter."  
 11 Did you refuse to leave?  
 12 A I don't recall, no, no.  
 13 Maybe I -- well, wait a second, wait.  
 14 Wait a second. Maybe I wanted the issue  
 15 resolved and I wanted some explanation of  
 16 the issue, which is my duty to do. I  
 17 have a duty to my client, not to a clerk,  
 18 but to my client to make sure the issue  
 19 is resolved, whatever this issue was.  
 20 Michael called me over,  
 21 there was an issue. I have a duty to  
 22 make sure that issue gets resolved as the  
 23 attorney for the motorist, that's my job,  
 24 make sure it's resolved, right? That's  
 25 the job of the attorney here, right? I

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1 M.H. Capogrosso  
 2 had the obligation, so let me resolve it.  
 3 Let me speak to somebody else if there's  
 4 an issue and one person can't solve it,  
 5 you go to another person and maybe they  
 6 can solve it.  
 7 So, yeah, I had a duty to my  
 8 client to resolve that issue, so maybe --  
 9 Q So she writes --  
 10 Mr. Capogrosso, she writes "Throughout  
 11 the day Mr. Capogrosso was taunting me.  
 12 He would walk past my station making  
 13 comments and smirking at me." Is that  
 14 true?  
 15 A No. Taunt? Wait a second.  
 16 How exactly did I taunt? Now you give me  
 17 the exact words I used. That's a lie.  
 18 Smirk? You know, when an  
 19 issue is resolved with me, it's resolved.  
 20 I don't hold on -- you know, I don't keep  
 21 going back after it. I did not smirk. I  
 22 don't know what smirking is.  
 23 First of all, is there a  
 24 problem with smirking? I think we have a  
 25 Vice President now that smirks all the

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1 M.H. Capogrosso  
 2 time. She enjoys smirking. That's my  
 3 opinion.  
 4 I don't see anything wrong  
 5 with smirking, though I don't recall  
 6 doing it. I don't even know what  
 7 smirking is. Laughing?  
 8 Q Smirking is a little smile.  
 9 A All right. We got a Vice  
 10 President that seems to do it all the  
 11 time. It's all right for the Vice  
 12 President.  
 13 Q I'm not sure I understand  
 14 what this has to do with the Vice  
 15 President.  
 16 A Well, I'm telling you we  
 17 have a Vice President now, Kamala, who  
 18 likes to smirk.  
 19 I don't -- I don't know what  
 20 smirking is. I have an issue, I resolve  
 21 the issue, I move on. I'm not trying to  
 22 have a beef with a clerk at a DMV. That  
 23 is not my issue to have a beef or an  
 24 argument with a clerk. I need these  
 25 clerks to help me out.

<p style="text-align: right;">Page 178</p> <p>1 M.H. Capogrosso</p> <p>2 Q If you don't know what</p> <p>3 smirking is --</p> <p>4 A I have -- I have no reason</p> <p>5 to have an argument or an altercation</p> <p>6 with a clerk, none, no reason.</p> <p>7 Q Mr. Capogrosso, if you don't</p> <p>8 know what smirking is, how do you know</p> <p>9 the Vice President does it?</p> <p>10 A Well, to me a smirk is when</p> <p>11 you laugh sarcastically, right, that's a</p> <p>12 smirk? That's what a smirk is, you laugh</p> <p>13 sarcastically.</p> <p>14 And once again I will</p> <p>15 repeat, it does me no good to have any</p> <p>16 type of issue with a clerk. I'm there to</p> <p>17 do a job. I smirk? Now I smirk? I mean</p> <p>18 I don't believe I'm being accused of</p> <p>19 smirking.</p> <p>20 Q I will tell you,</p> <p>21 Mr. Capogrosso, this is not the first</p> <p>22 complaint that we'll see today where</p> <p>23 someone indicates that you kept coming by</p> <p>24 and smiling at them and sort of taunting</p> <p>25 them throughout the day.</p>	<p style="text-align: right;">Page 180</p> <p>1 M.H. Capogrosso</p> <p>2 I mean you can have any</p> <p>3 perception you like of somebody. You can</p> <p>4 have any perception you like. It doesn't</p> <p>5 mean that that's what I am.</p> <p>6 Q Were you aware --</p> <p>7 A I was a zealous advocator,</p> <p>8 but --</p> <p>9 Q Mr. Capogrosso, were you --</p> <p>10 A Let me finish.</p> <p>11 Q Sure.</p> <p>12 A Well, let me finish. What</p> <p>13 reason did she fear? What exactly did I</p> <p>14 do? See, I want to know the specifics.</p> <p>15 I don't want to know the allegations.</p> <p>16 Tell me exactly why you felt fearful.</p> <p>17 And let me tell you</p> <p>18 something, you tell me once, you never</p> <p>19 have to tell me twice. Tell me exactly</p> <p>20 what --</p> <p>21 Q Mr. Capogrosso --</p> <p>22 A -- I did. I'd like to know.</p> <p>23 Q Well, it seems here you</p> <p>24 yelled at her and cursed at her and</p> <p>25 wouldn't leave when she asked you to.</p>
<p style="text-align: right;">Page 179</p> <p>1 M.H. Capogrosso</p> <p>2 A Well, you can --</p> <p>3 Q Do you have any response to</p> <p>4 that?</p> <p>5 A Well, you can make any</p> <p>6 complaint you like, it doesn't mean it's</p> <p>7 true and I have no reason, no reason to</p> <p>8 have any beef, any complaints with a</p> <p>9 clerk and clerks at this office that I</p> <p>10 need. Now, I was given no opportunity to</p> <p>11 respond to this, none at the time, none.</p> <p>12 Q Mr. Capogrosso she writes "I</p> <p>13 can no longer interact with</p> <p>14 Mr. Capogrosso at the service counter</p> <p>15 because I fear for my safety. On many</p> <p>16 occasions I've observed him display his</p> <p>17 aggressive behavior toward my coworkers,</p> <p>18 his clients, the other attorneys and</p> <p>19 their assistants."</p> <p>20 She feared for her safety,</p> <p>21 what does that mean to you?</p> <p>22 A I don't know. I treated her</p> <p>23 nicely and respectfully. Nicely and</p> <p>24 respectfully I treated this woman. I</p> <p>25 never threatened her or harmed her.</p>	<p style="text-align: right;">Page 181</p> <p>1 M.H. Capogrosso</p> <p>2 A Well, I didn't yell and I</p> <p>3 didn't curse, I didn't insult. No words</p> <p>4 are shown, no words. What words were</p> <p>5 spoken?</p> <p>6 Now what I did --</p> <p>7 Q Mr. Capogrosso --</p> <p>8 A -- do, maybe I was loud, but</p> <p>9 I did not yell and I did not curse. I</p> <p>10 did not curse and I did not insult and</p> <p>11 for what reason she's fearful I do not</p> <p>12 know. I didn't schmooze with her in the</p> <p>13 morning and ask her how's she doing and</p> <p>14 is she okay and how is your weekend and</p> <p>15 how's all this. I didn't talk about all</p> <p>16 that stuff. I was there to do a job.</p> <p>17 Q Mr. Capogrosso, were you</p> <p>18 aware that there were people at the TVB</p> <p>19 who were afraid of you?</p> <p>20 A No.</p> <p>21 Q No?</p> <p>22 A None of these complaints</p> <p>23 were ever brought to me. You tell me</p> <p>24 once, you don't have to tell me twice.</p> <p>25 Q That's not the question</p>

15 (Pages 178 - 181)

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1 M.H. Capogrosso  
 2 though. The question is were you aware  
 3 that there were people who were afraid of  
 4 you?  
 5 A No. Tell me who. I was  
 6 never put on notice. You tell me once,  
 7 you never have to tell me twice.  
 8 Q Did anyone around you seem  
 9 afraid of you?  
 10 A Seem afraid? I don't know  
 11 how other people feel. I know I have a  
 12 very strong presence, I understand that.  
 13 I've been told that I have a certain  
 14 strong presence and maybe it's because a  
 15 lot of things I've done in my life, but I  
 16 do have a strong presence.  
 17 Q If --  
 18 A I've been told that.  
 19 Q If someone was afraid of  
 20 you, would you care?  
 21 A I would try to rectify it.  
 22 I would do everything I could in my  
 23 ability to rectify it. But was I trying  
 24 to endear myself to these clerks, no. I  
 25 was trying to do a job.

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1 M.H. Capogrosso  
 2 Q Were you aware that  
 3 Ms. Cervoni had filed a complaint?  
 4 A No, no, absolutely not.  
 5 Like I said, if she had brought this to  
 6 my attention I would have rectified it  
 7 immediately. If anybody brought this to  
 8 my attention, I would have rectified it  
 9 immediately.  
 10 Q She writes that you  
 11 assaulted a female assistant who works  
 12 for another lawyer. Is she referring to  
 13 Ms. Rabinovich?  
 14 A Yeah. That was not an  
 15 assault. That's a lie. There was no  
 16 assault. There was no assault. I would  
 17 have been arrested if there's an assault.  
 18 That's an absolute lie. Your words are  
 19 very important here. You can't make  
 20 accusations against somebody that aren't  
 21 true.  
 22 Q So why is Ms. Cervoni lying?  
 23 A Why? I don't know. There  
 24 was no assault.  
 25 Q Why would --

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1 M.H. Capogrosso  
 2 A Was I arrested for assault?  
 3 Q Why would she lie?  
 4 A Well, maybe she liked Tanya  
 5 and she didn't like me. Maybe she liked  
 6 Tanya and she didn't like me. I didn't  
 7 schmooze with these law -- with these  
 8 clerks. I wasn't there in the morning  
 9 saying how was your day. I wasn't there  
 10 saying how was your weekend. I wasn't  
 11 there saying what do you want to do for  
 12 lunch today.  
 13 Q Well, she's --  
 14 A I wasn't doing that.  
 15 Q -- not saying that you're  
 16 not saying, you know, asking her how  
 17 she's doing, schmoozing her in the  
 18 mornings. She's saying that you're  
 19 physically scaring her.  
 20 A How did I physically scare  
 21 her? Tell me the specifics.  
 22 Q You --  
 23 A Tell me what I did.  
 24 Q -- yelled at her and cursed  
 25 at her and you wouldn't leave when she

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1 M.H. Capogrosso  
 2 said to leave.  
 3 A I didn't curse. I might  
 4 have been loud. I didn't curse.  
 5 Q She says she had to go to  
 6 the back office to get away from you.  
 7 A Well, that was her decision.  
 8 My duty is to my client. If a supervisor  
 9 comes out, I'm trying to resolve the  
 10 issue, I'm going to talk to the  
 11 supervisor.  
 12 Q Do you remember her leaving  
 13 to get away from you?  
 14 A No.  
 15 Q She writes "His aggressive  
 16 behavior has steadily progressed within  
 17 the past few months. I no longer feel  
 18 comfortable at my place of employment  
 19 because of this individual's behavior and  
 20 I wish to go on record in the event of  
 21 any future conflicts."  
 22 A Well --  
 23 Q Had your aggressive behavior  
 24 been progressing?  
 25 A I don't know what she means



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1 M.H. Capogrosso  
 2 by aggressive behavior. Tell me what I  
 3 did.  
 4 Q Well, were you aware at this  
 5 point that there have been multiple  
 6 incidents where people claimed that you  
 7 had been aggressive?  
 8 A No, no, no. I --  
 9 Q You had no idea that anyone  
 10 complained about the incident with  
 11 Ms. Rabinovich?  
 12 A No, no. You tell me -- I've  
 13 never seen these complaints. If Judge  
 14 Gelbstein was doing his job or his  
 15 clerical supervisor was doing their job,  
 16 they would have brought this complaint to  
 17 my attention and I would have resolved  
 18 it. You tell me once, you don't have to  
 19 tell me twice.  
 20 Q So --  
 21 A You have to let me finish.  
 22 You tell me once, you never have to tell  
 23 me twice. You have to let me finish.  
 24 Q So --  
 25 A Let me finish.

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1 M.H. Capogrosso  
 2 Q Sure.  
 3 A This was never brought to my  
 4 attention so I could resolve it. I'm  
 5 there working on a daily basis. I have  
 6 no reason to have any altercations with  
 7 anybody. I was there to zealously  
 8 advocate on behalf of my clients.  
 9 You tell me what the  
 10 aggressive behavior is and I will resolve  
 11 it, but don't accuse me of something --  
 12 Q So --  
 13 A You got to let me finish.  
 14 Q Sure.  
 15 A -- and leave out the details  
 16 of what the aggressive behavior was, then  
 17 don't show me this affidavit ever or  
 18 bring it to my attention so I can resolve  
 19 it. That's not being fair.  
 20 Q So Mr. Capogrosso --  
 21 A You've got to let me finish.  
 22 Q I do need to ask another  
 23 question.  
 24 A You have to let me finish.  
 25 I'm not finished.

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1 M.H. Capogrosso  
 2 That is not being fair to  
 3 me. You have to let me finish. You're  
 4 not being fair to me if you make an  
 5 accusation and you don't let me address  
 6 it and resolve it, you're not being fair  
 7 to me.  
 8 Q All right.  
 9 A You have let me finish.  
 10 Q Mr. Capogrosso, let's move  
 11 on to the next question.  
 12 A I want to finish.  
 13 Q Respectfully --  
 14 A You're not --  
 15 Q -- we are going to move on  
 16 to the next question.  
 17 A You're not being fair to me  
 18 if you don't let me address that issue.  
 19 Q Mr. Capogrosso, you've been  
 20 addressing the issue. We have other  
 21 questions that we need to get to, the  
 22 first of which is yesterday at his  
 23 deposition, Judge Gelbstein testified  
 24 that when he received a complaint about  
 25 you, he would take you into his office

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1 M.H. Capogrosso  
 2 and speak with you verbally about it.  
 3 Did he do that in this  
 4 case --  
 5 A No, he did not.  
 6 Q -- with the complaints?  
 7 A No.  
 8 Q Do you remember him ever  
 9 taking you to his office to discuss  
 10 complaints about you and about aggressive  
 11 behavior?  
 12 A Absolutely not. Now --  
 13 Q Not once?  
 14 A You have to let me finish.  
 15 Q Sure.  
 16 A All these complaints, Judge  
 17 Gelbstein never presented to me one of  
 18 these complaints, not one, because I  
 19 would have filed --  
 20 Q Mr. Capogrosso --  
 21 A You have to let me finish.  
 22 Mr. Thompson, you've got to let me  
 23 finish.  
 24 Q Well, let me clarify the  
 25 question.



<p style="text-align: right;">Page 190</p> <p>1 M.H. Capogrosso</p> <p>2 MS. REPORTER: Wait, time</p> <p>3 out. I'm going off the record right</p> <p>4 now.</p> <p>5 Q Mr. Capogrosso --</p> <p>6 MS. REPORTER: Time out.</p> <p>7 I'm stopping. I'm not even writing</p> <p>8 this.</p> <p>9 MR. THOMPSON: Let's go off</p> <p>10 the record.</p> <p>11 MS. REPORTER: Off the</p> <p>12 record, please, off the record. We</p> <p>13 are having an issue.</p> <p>14 MR. THOMPSON: Off the</p> <p>15 record, please.</p> <p>16 MR. VIDEOGRAPHER: The time</p> <p>17 is 12:40. We are off the record.</p> <p>18 (A short recess was taken.)</p> <p>19 MR. VIDEOGRAPHER: The time</p> <p>20 is 12:45. We are on the record.</p> <p>21 Q So, Mr. Capogrosso, as I</p> <p>22 mentioned, yesterday at his deposition</p> <p>23 Judge Gelbstein testified that when he</p> <p>24 received a complaint about you, he would</p> <p>25 take you into his office and tell you</p>	<p style="text-align: right;">Page 192</p> <p>1 M.H. Capogrosso</p> <p>2 don't have to tell me twice.</p> <p>3 Q So was Mr. Gelbstein lying</p> <p>4 when he said that he spoke with you</p> <p>5 verbally about complaints?</p> <p>6 A Yes. I've never -- he never</p> <p>7 gave me a specific of any complaint that</p> <p>8 I could respond to, never the specific of</p> <p>9 any complaint that I could respond to and</p> <p>10 resolve.</p> <p>11 Q Did he ever tell you that</p> <p>12 there had been complaints without giving</p> <p>13 you the specifics?</p> <p>14 A No. Give me the specific</p> <p>15 complaint. No. Tell me what it is and I</p> <p>16 will respond and resolve it.</p> <p>17 Q So were you aware that there</p> <p>18 had ever been any complaint made about</p> <p>19 you by any person?</p> <p>20 A No, no. I saw no</p> <p>21 complaints. People didn't like me, I</p> <p>22 understand that, but I saw no complaints</p> <p>23 from anyone that I could respond to and</p> <p>24 resolve because --</p> <p>25 Q And --</p>
<p style="text-align: right;">Page 191</p> <p>1 M.H. Capogrosso</p> <p>2 verbally the substance of that complaint.</p> <p>3 Do you remember him</p> <p>4 testifying to that?</p> <p>5 A He testified to it.</p> <p>6 Q Did that happen in this</p> <p>7 case, in the case of Ms. Cervoni's</p> <p>8 complaint?</p> <p>9 A Not to me, no, never.</p> <p>10 Q Do you remember him ever</p> <p>11 having a verbal conversation with you</p> <p>12 about complaints that had been made about</p> <p>13 you?</p> <p>14 A No, nothing, no because he</p> <p>15 never gave me any complaint to respond</p> <p>16 to. I would have responded.</p> <p>17 Q And let me clarify the</p> <p>18 question. I'm not asking whether he gave</p> <p>19 you the physical hard copy complaint.</p> <p>20 I'm asking whether he verbally told you</p> <p>21 about complaints that had been made about</p> <p>22 you?</p> <p>23 A No. You tell me once --</p> <p>24 Q He never did that?</p> <p>25 A No. You tell me once, you</p>	<p style="text-align: right;">Page 193</p> <p>1 M.H. Capogrosso</p> <p>2 A -- I'm the first one to</p> <p>3 attempt to resolve it.</p> <p>4 Q And Mr. Capogrosso I want to</p> <p>5 make this question very clear, I'm not</p> <p>6 asking whether you saw a physical hard</p> <p>7 copy paper complaint. I'm asking you</p> <p>8 were you ever aware that anyone had ever</p> <p>9 made a complaint about your conduct?</p> <p>10 A No.</p> <p>11 Q Let's move on to a new</p> <p>12 document. I'll close out of that one.</p> <p>13 MR. THOMPSON: I'm not sure</p> <p>14 if we marked that one, Ms. MacDonald,</p> <p>15 but let's mark that Exhibit 5 if we</p> <p>16 haven't already, the previous one.</p> <p>17 Q Mr. Capogrosso, can you see</p> <p>18 this document?</p> <p>19 A Yes.</p> <p>20 Q Do you recognize this</p> <p>21 document?</p> <p>22 A Yeah. I recognize the top</p> <p>23 portion of it, but I'm sure it's --</p> <p>24 Q And you see this document</p> <p>25 was produced by you and marked P-86;</p>

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1 M.H. Capogrosso  
2 correct?  
3 A Yes.  
4 Q What is this document?  
5 A I don't know. It's a  
6 complaint from Diantha Fuller I guess.  
7 MR. THOMPSON: Can I, Madam  
8 Court Reporter, can I ask you to mark  
9 this as Exhibit 6?  
10 (The above-referred-to  
11 statement was marked as Exhibit 6 for  
12 identification as of this date.)  
13 Q Mr. Capogrosso, my first  
14 question is these redactions up at the  
15 top, did you add these?  
16 A No.  
17 Q Where are they from?  
18 A Where are they from? I  
19 don't know where they're from. I know  
20 you submitted it to my office and then I  
21 returned it.  
22 Q Because to my knowledge,  
23 these were not redacted --  
24 A Oh.  
25 Q -- when we submitted them.

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1 M.H. Capogrosso  
2 A I'll tell you where I got  
3 this. I got this redacted like this in  
4 a motion -- in your motion to dismiss,  
5 this was attached redacted. You filed  
6 these affidavits. The first time I'm  
7 seeing these affidavits is in your motion  
8 to dismiss to me and they were redacted  
9 in that manner. That's where I got it.  
10 Q Okay. So who is Diantha L.  
11 Fuller?  
12 A She's a lawyer that worked  
13 down there.  
14 Q And do you have a good  
15 relationship with Ms. Fuller?  
16 A No. Diantha did not like  
17 me. Diantha did not like me. She did  
18 not like me at all.  
19 Q Why not?  
20 A I don't know. She just  
21 didn't like me. I didn't talk to her. I  
22 didn't socialize with her. I didn't like  
23 the type of attorney she was.  
24 Q What type of attorney was  
25 she?

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1 M.H. Capogrosso  
2 A Well, she just pretty much  
3 pleaded you guilty. She went into the  
4 courtroom, took a case, postponed it and  
5 she just entered a guilty plea. She  
6 didn't really argue for her clients and I  
7 felt that was terrible.  
8 She's used to solicit  
9 attorneys -- solicit clients all the  
10 time, solicit clients all the time.  
11 She'd walk up to a client in the morning,  
12 hand them his bus -- her business card  
13 and says here, I'm a lawyer. I thought  
14 it was terrible. Judge Gelbstein allowed  
15 it.  
16 So I didn't like her as an  
17 attorney whatsoever. It was terrible  
18 what she was doing. There's signs all  
19 around that say you shouldn't solicit and  
20 she was soliciting everybody.  
21 Q So Ms. Fuller writes "As  
22 requested by your staff, below is Agnes  
23 Paez's report of the events that  
24 transpired on 7/31/09 in the Coney Island  
25 Traffic Bureaus, which I took directly

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1 M.H. Capogrosso  
2 from an e-mail she submitted to me."  
3 Do you know who Agnes Paez  
4 is?  
5 A Yes. She was a paralegal  
6 down there.  
7 Q And who did she work for?  
8 A Well, actually I do remember  
9 her now. Now actually this lady did work  
10 for me for a while before Michael came on  
11 and then went to work -- she did, she  
12 worked as a translator. She spoke  
13 Spanish. She did work for a couple of  
14 months I think. I don't know exactly how  
15 long, but for a couple of months with me  
16 down there. She was a translator.  
17 And I didn't like what she  
18 was doing, so I let her go and I brought  
19 Michael in instead.  
20 Q And was this time that she  
21 worked with you before or after July 31,  
22 2009?  
23 A It was before. Before then,  
24 before then.  
25 Q And you said you fired

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1 M.H. Capogrosso  
 2 Ms. Paez; is that true?  
 3 A I told her -- well, she  
 4 went -- I said we are not going to work  
 5 anymore together. I didn't like what she  
 6 was doing.  
 7 Q What was she doing that you  
 8 didn't like?  
 9 A She was soliciting,  
 10 soliciting motorists in the parking lot  
 11 and they was walking in. It was  
 12 embarrassing. She was hungry for money  
 13 this woman. She was walking -- she  
 14 was -- and the other attorneys were  
 15 complaining, too. She was in the parking  
 16 lot as motorists were walking in in the  
 17 morning, she was handing out business  
 18 cards. I said you can't do that, you're  
 19 a translator.  
 20 She was soliciting motorists  
 21 as they were walking in the building. I  
 22 said it's terrible.  
 23 Q Was she soliciting -- I  
 24 apologize. Keep going.  
 25 A Yeah. It was terrible what

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1 M.H. Capogrosso  
 2 she was doing. I said I'm not having  
 3 this.  
 4 Q Was she soliciting these  
 5 motorists on your behalf to work for you?  
 6 A Well, it seemed like that  
 7 and as soon as I saw that happen, I said  
 8 that's it, no more, no more. You're not  
 9 supposed to solicit. You don't walk up  
 10 to clients. You're here as a translator.  
 11 Now she was doing it for  
 12 Diantha and Diantha didn't seem to have  
 13 any problem with it, which is the other  
 14 reason I didn't like Diantha because  
 15 Diantha was soliciting and Agnes was  
 16 soliciting. I said you girls do what you  
 17 want. I'm not going to engage in that.  
 18 Q So Ms. Paez writes that she  
 19 was speaking with a client on behalf of  
 20 Ms. Fuller when she was approached by  
 21 you. You then "stood in front of me and  
 22 told Ms. Fuller's client that I was not a  
 23 lawyer and he should not be speaking to  
 24 me. He then handed my client his  
 25 business card."

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1 M.H. Capogrosso  
 2 Is that true?  
 3 A No. That's not true. I  
 4 don't think I ever would have interrupted  
 5 another person in a conversation, that's  
 6 not what I do, absolutely not.  
 7 Q And she says the client did,  
 8 in fact, know that Ms. Paez was not an  
 9 attorney and was shocked at your  
 10 behavior.  
 11 She writes "Mr. Capogrosso  
 12 then turned to me and called me a variety  
 13 of vulgar and profane names and  
 14 threatened me with violence to stay away  
 15 from the Department of Motor Vehicles."  
 16 Is that true?  
 17 A No. It's absolutely a lie.  
 18 I would have been arrested for that,  
 19 Counselor. I would have been -- a police  
 20 report would have been filed and I would  
 21 have been arrested, arrested if that's  
 22 true.  
 23 Now you can say --  
 24 Q Do you remember --  
 25 A -- what you like. I would

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1 M.H. Capogrosso  
 2 have been arrested.  
 3 Q Do you remember this  
 4 incident?  
 5 A No, I absolutely do not. I  
 6 know I didn't like what she was doing  
 7 down there. Judge Gelbstein condoned it.  
 8 There's nothing I could do about it. But  
 9 did I ever approach her, absolutely not.  
 10 There was no reason for me to. I had  
 11 plenty.  
 12 Q Why would -- why would  
 13 Ms. Paez lie?  
 14 A I don't know. Diantha  
 15 didn't like me. I saw what she was doing  
 16 soliciting. I let her go. I didn't want  
 17 to work with her anymore.  
 18 Q So you don't know why she  
 19 would lie?  
 20 A I don't know. What she's  
 21 saying here is not the truth. I have no  
 22 reason to interfere between two people.  
 23 I had no reason to interfere. I had  
 24 plenty of clients down there. My clients  
 25 liked me.

<p style="text-align: right;">Page 202</p> <p>1 M.H. Capogrosso</p> <p>2 Q So, Mr. Capogrosso, you're</p> <p>3 telling us that a lot of people are</p> <p>4 telling the same lie about you, that</p> <p>5 they're all lying the same way, they're</p> <p>6 all saying that you yelled and screamed</p> <p>7 and cursed at them. Why would they all</p> <p>8 tell the same lie?</p> <p>9 A I have no idea. I'm</p> <p>10 responding to each affidavit in kind, all</p> <p>11 right. I'm responding to this affidavit</p> <p>12 in kind. Let's just stick to this one.</p> <p>13 Let's be very specific, not general. If</p> <p>14 there's affidavits written against me, I</p> <p>15 will address them.</p> <p>16 Now, this affidavit --</p> <p>17 Q Well, I think it's --</p> <p>18 A Go ahead.</p> <p>19 Q I'm sorry, Mr. Capogrosso,</p> <p>20 sometimes when you speak you pause and I</p> <p>21 think you're done with your response and</p> <p>22 then I speak up.</p> <p>23 A This affidavit states</p> <p>24 generalizations, nothing specific. It</p> <p>25 states in a violent manner. What exactly</p>	<p style="text-align: right;">Page 204</p> <p>1 M.H. Capogrosso</p> <p>2 Q I mean if --</p> <p>3 A It's your allegations.</p> <p>4 Well, tell me what I said. Tell me</p> <p>5 exactly what was said. Give me an</p> <p>6 opportunity to respond.</p> <p>7 Q She's characterizing your</p> <p>8 speech. She said you said vulgar and</p> <p>9 profane names and threatened her with</p> <p>10 violence.</p> <p>11 A Well, first of all I did. I</p> <p>12 would never talk to a woman like that,</p> <p>13 but I want to know exactly what was said.</p> <p>14 Tell me what was said. You can make --</p> <p>15 you know, I can write affidavits about</p> <p>16 everybody down there. I can say the same</p> <p>17 thing about somebody.</p> <p>18 You can't make these blatant</p> <p>19 accusations about people and don't give</p> <p>20 the specifics. Exactly what was said?</p> <p>21 If I threatened somebody with violence, I</p> <p>22 would have been arrested.</p> <p>23 Q She writes "Finally</p> <p>24 Mr. Capogrosso told me to stay away from</p> <p>25 him in a very violent manner, towering</p>
<p style="text-align: right;">Page 203</p> <p>1 M.H. Capogrosso</p> <p>2 did I do? Towering over me, what exactly</p> <p>3 did I do? Threatening, what exactly did</p> <p>4 I do to threaten? Frighten, what did I</p> <p>5 do to frighten? You tell me. I used</p> <p>6 vulgar and profane names. Tell me the</p> <p>7 names I used. Tell me exactly what I did</p> <p>8 to threaten.</p> <p>9 Now you might feel that,</p> <p>10 that might be your perception, but tell</p> <p>11 me the specifics that I actually did and</p> <p>12 there are none listed here.</p> <p>13 Q Well, she says that you</p> <p>14 turned to her and you tried to get her to</p> <p>15 stop speaking to somebody, you called her</p> <p>16 a variety of vulgar and profane names and</p> <p>17 you threatened her with violence. I mean</p> <p>18 that may not be specific enough for you,</p> <p>19 but it's pretty specific.</p> <p>20 A Well, how exactly did I</p> <p>21 threaten? What did I say, I'm going to</p> <p>22 hit you? What did I say?</p> <p>23 Q Does it matter what you</p> <p>24 said?</p> <p>25 A It does.</p>	<p style="text-align: right;">Page 205</p> <p>1 M.H. Capogrosso</p> <p>2 over me and spoke so loudly and in a</p> <p>3 threatening manner that a plain clothes</p> <p>4 policeman standing next to me asked if he</p> <p>5 needed to get involved."</p> <p>6 Do you -- does that refresh</p> <p>7 your recollection at all?</p> <p>8 A No. I was never arrested</p> <p>9 for anything. I did nothing wrong.</p> <p>10 Obviously the cop understood that.</p> <p>11 Q You know that you're a big</p> <p>12 and intimidating guy. Do you ever get in</p> <p>13 someone's personal space because you know</p> <p>14 that --</p> <p>15 A Absolutely not, no.</p> <p>16 Q What did --</p> <p>17 A I avoid situations. I don't</p> <p>18 want a situation. I avoid if -- I</p> <p>19 absolutely avoid. Will I confront when</p> <p>20 necessary, yes. When it's on behalf of</p> <p>21 my client, yes.</p> <p>22 But if you're going to tell</p> <p>23 me I threatened you, you better tell me</p> <p>24 exactly what I said to threaten you. I</p> <p>25 would never threaten a woman number one.</p>



<p style="text-align: right;">Page 206</p> <p>1 M.H. Capogrosso</p> <p>2 Q Well, a number of people</p> <p>3 have asserted that you did and we'll see</p> <p>4 a couple more throughout the course of</p> <p>5 the day.</p> <p>6 A Well, let's go through them</p> <p>7 one at a time.</p> <p>8 Q All right. She writes</p> <p>9 again, "I was especially nervous because</p> <p>10 I am six months pregnant and I was in</p> <p>11 fear his outbursts would turn violent."</p> <p>12 A Well, you --</p> <p>13 Q Do you have any response to</p> <p>14 that?</p> <p>15 A You might have any</p> <p>16 perception you want. I don't recall</p> <p>17 having any altercation with this woman,</p> <p>18 other than telling her I didn't want her</p> <p>19 working for me anymore and as she was</p> <p>20 soliciting motorists in the parking lot</p> <p>21 and soliciting motorists on the DMV floor</p> <p>22 and Diantha Fuller was condoning all</p> <p>23 these actions.</p> <p>24 Q So is Ms. Fuller lying here?</p> <p>25 A About what? What's</p>	<p style="text-align: right;">Page 208</p> <p>1 M.H. Capogrosso</p> <p>2 A I don't know why she's</p> <p>3 lying, I have no idea, but what's -- if</p> <p>4 you're going to accuse me of threatening</p> <p>5 you, tell me the words I used or have me</p> <p>6 arrested, but don't threaten -- don't say</p> <p>7 something like that --</p> <p>8 Q All right.</p> <p>9 A -- ruin my reputation and my</p> <p>10 name and don't give me the specifics of</p> <p>11 exactly what I did.</p> <p>12 Q So let's move on to the next</p> <p>13 exhibit.</p> <p>14 MR. THOMPSON: And,</p> <p>15 Ms. MacDonald, I can't recall whether</p> <p>16 we had that marked, but that previous</p> <p>17 exhibit, let's have that marked as</p> <p>18 Exhibit 6 if hasn't been already.</p> <p>19 Q Mr. Capogrosso, can you see</p> <p>20 the exhibit?</p> <p>21 A Ah, yes, all the clerks</p> <p>22 don't like me. They're signing their</p> <p>23 names, yes, yes.</p> <p>24 Q So do you recognize this</p> <p>25 document?</p>
<p style="text-align: right;">Page 207</p> <p>1 M.H. Capogrosso</p> <p>2 Ms. Fuller's statements?</p> <p>3 Q Well, she's passing along</p> <p>4 this statement from her paralegal.</p> <p>5 A Well, Ms. Fuller did not</p> <p>6 observe it now, did she, so I don't know</p> <p>7 what Ms. Fuller is observing.</p> <p>8 Q But Ms. Paez is lying, is</p> <p>9 that your testimony?</p> <p>10 A I did not threaten a woman.</p> <p>11 I would never threaten a woman in my</p> <p>12 life.</p> <p>13 Q So yes, she's lying?</p> <p>14 A Yes, yes, absolutely lying.</p> <p>15 Q And you have no -- and you</p> <p>16 have no sense of why she would lie; is</p> <p>17 that correct?</p> <p>18 A I don't think you need a --</p> <p>19 I don't know why. We are all</p> <p>20 competitive. We are all going after the</p> <p>21 same summonses down there. All going</p> <p>22 over the same summonses. Did the woman</p> <p>23 like me, no.</p> <p>24 Q So you think that's why</p> <p>25 she's lying?</p>	<p style="text-align: right;">Page 209</p> <p>1 M.H. Capogrosso</p> <p>2 A Yes, absolutely.</p> <p>3 Q And what is this document?</p> <p>4 A This is a complaint. This</p> <p>5 was something --</p> <p>6 Q What is this document?</p> <p>7 A I have no idea. Something</p> <p>8 that all the clerks signed that Bushra</p> <p>9 Vahdat had them sign.</p> <p>10 Q And this document was</p> <p>11 produced by us and it's Bates stamped DMV</p> <p>12 lots of zeros 244; correct?</p> <p>13 A Yeah. Yes. The clerks</p> <p>14 didn't like me, I know that.</p> <p>15 Q You see that down in the</p> <p>16 lower right?</p> <p>17 A Yeah. The clerks didn't</p> <p>18 like me. I know that.</p> <p>19 Q And so, Mr. Capogrosso,</p> <p>20 what's this document?</p> <p>21 A I don't know. This is an</p> <p>22 affidavit by all the clerks.</p> <p>23 Q It's not an affidavit. I</p> <p>24 don't think there's a notarization or</p> <p>25 anything.</p>



<p style="text-align: right;">Page 210</p> <p>1 M.H. Capogrosso</p> <p>2 A I don't know what it is.</p> <p>3 It's a bunch of signatures.</p> <p>4 Q Either way --</p> <p>5 A It's a bunch of signatures</p> <p>6 by people at the DMV.</p> <p>7 MR. THOMPSON: Ms.</p> <p>8 MacDonald, can we have this marked as</p> <p>9 Exhibit 7?</p> <p>10 (The above-referred-to</p> <p>11 statement along with signatures was</p> <p>12 marked as Exhibit 7 for</p> <p>13 identification as of this date.)</p> <p>14 Q And so the people who signed</p> <p>15 this document, right, "We the undersigned</p> <p>16 clerks, supervisors and judges of the</p> <p>17 Brooklyn South Traffic Violations Bureau</p> <p>18 state that we feel the presence of</p> <p>19 attorney Mario Capogrosso on our premises</p> <p>20 constitutes a threat to our physical</p> <p>21 safety."</p> <p>22 Why would they think that,</p> <p>23 Mr. Capogrosso?</p> <p>24 A I have no idea. Tell me the</p> <p>25 specifics. I have no idea. You can't</p>	<p style="text-align: right;">Page 212</p> <p>1 M.H. Capogrosso</p> <p>2 absolutely. How you perceive me, that's</p> <p>3 up to you. What did I actually do is a</p> <p>4 different situation. You can perceive me</p> <p>5 in any manner you like. What did I</p> <p>6 actually do?</p> <p>7 Q What do you mean by strong</p> <p>8 presence?</p> <p>9 A I do have a strong presence.</p> <p>10 I've been told that. I'm not --</p> <p>11 Q What do you mean by the term</p> <p>12 strong presence?</p> <p>13 A Well, I'm not afraid to</p> <p>14 speak my mind. I'm not afraid to</p> <p>15 confront. I'm not afraid to confront,</p> <p>16 that's what lawyers do. I'm -- I -- I</p> <p>17 state the truth, I get right to the issue</p> <p>18 and I try to resolve it. That's who I am</p> <p>19 as a person, as a man, as an attorney,</p> <p>20 that's who I am.</p> <p>21 If you perceive -- if you</p> <p>22 have a perception of me that you feel,</p> <p>23 tell me what I did. Give me an</p> <p>24 opportunity to resolve it. Give me the</p> <p>25 opportunity to resolve it. Don't just</p>
<p style="text-align: right;">Page 211</p> <p>1 M.H. Capogrosso</p> <p>2 make allegations against a man and his</p> <p>3 reputation if you don't give me the</p> <p>4 specifics that occurred and give me an</p> <p>5 opportunity to respond and resolve it.</p> <p>6 Let me know what I did.</p> <p>7 Q Did people --</p> <p>8 A I'd like to know.</p> <p>9 Q Did people view you as a</p> <p>10 threat to their physical safety?</p> <p>11 A I don't know. I have no</p> <p>12 idea, none. I can't answer that. They</p> <p>13 might have. They --</p> <p>14 Q Did --</p> <p>15 A They might have.</p> <p>16 Q Were they right to view you?</p> <p>17 A I don't know. I am -- you</p> <p>18 know, I was dealing with a lot of tough</p> <p>19 guys down there, a lot of tough</p> <p>20 motorists. There are tough guys down</p> <p>21 there in Brooklyn, they are. I'm dealing</p> <p>22 with a lot of tough guys.</p> <p>23 And do I have a strong</p> <p>24 presence, absolutely, I admit that. Do I</p> <p>25 come across with a strong presence,</p>	<p style="text-align: right;">Page 213</p> <p>1 M.H. Capogrosso</p> <p>2 make blatant accusations against a man.</p> <p>3 Q When you say strong</p> <p>4 presence, do you mean strong physical</p> <p>5 presence?</p> <p>6 A I have a strong physical</p> <p>7 presence, a strong persona. People say</p> <p>8 that when I walk in the room, they feel</p> <p>9 me or they sense me. I don't know why,</p> <p>10 they do. They -- I've been told this. I</p> <p>11 don't know why.</p> <p>12 I'm trying to figure out why</p> <p>13 they feel intimidated by me. I don't</p> <p>14 know why. But if they do, give me an</p> <p>15 opportunity to resolve it.</p> <p>16 Q But you knew that some</p> <p>17 people felt intimidated by --</p> <p>18 A No, I did not.</p> <p>19 Q -- you; is that correct?</p> <p>20 A I did not. I did not. I</p> <p>21 speak to everybody the same. I speak to</p> <p>22 everybody the same. If you feel that</p> <p>23 type -- if you feel that, give me an</p> <p>24 opportunity to resolve it. Give me an</p> <p>25 opportunity.</p>

<p style="text-align: right;">Page 214</p> <p>1 M.H. Capogrosso</p> <p>2 Q But were you aware that</p> <p>3 people were intimidated by your strong</p> <p>4 physical presence?</p> <p>5 A No, no. Absolutely not.</p> <p>6 I'm sorry if -- I'm sorry if I have a</p> <p>7 strong physical presence. I'm sorry.</p> <p>8 You're allowed to have a strong physical</p> <p>9 presence. You're allowed. You're</p> <p>10 allowed.</p> <p>11 Q So Mr. Capogrosso --</p> <p>12 A You have to let me finish.</p> <p>13 I can't help that. You're allowed to</p> <p>14 have that.</p> <p>15 Q So Mr. Capogrosso, they</p> <p>16 write "We believe that Mr. Capogrosso's</p> <p>17 behavior is unstable and hereby state</p> <p>18 that he has gotten into confrontations</p> <p>19 with many of us in the past years" and</p> <p>20 you'll see some of the names on this list</p> <p>21 like Marisol Cervoni are the list of</p> <p>22 people who have filed complaints or</p> <p>23 otherwise indicated that they had</p> <p>24 confrontations with you.</p> <p>25 A Well, they --</p>	<p style="text-align: right;">Page 216</p> <p>1 M.H. Capogrosso</p> <p>2 I'll talk to you about it later and</p> <p>3 that's it. But now I'm not allowed to</p> <p>4 talk to a clerk. I didn't know that</p> <p>5 Cindy and George were dating and now I'm</p> <p>6 not allowed to talk to Cindy. So I was</p> <p>7 talking to Cindy. George got upset. He</p> <p>8 starts yelling and screaming at me. I</p> <p>9 said I'll talk to you about it later if</p> <p>10 you want to talk and I said the word</p> <p>11 talk. I didn't threaten anybody. I said</p> <p>12 the word talk.</p> <p>13 Q Who told you that you</p> <p>14 weren't allowed to talk to someone?</p> <p>15 A George was getting upset.</p> <p>16 George was getting upset. I don't know.</p> <p>17 I was talking --</p> <p>18 Q Were you flirting with --</p> <p>19 A I wasn't flirting.</p> <p>20 Q Were you flirting with</p> <p>21 Cindy?</p> <p>22 A Cindy's a beautiful woman.</p> <p>23 Cindy was a beautiful woman. Was I</p> <p>24 flirting? I don't know if I was</p> <p>25 flirting. Did I like Cindy? Cindy was</p>
<p style="text-align: right;">Page 215</p> <p>1 M.H. Capogrosso</p> <p>2 Q They write "These</p> <p>3 confrontations have been escalating to</p> <p>4 the point where a physical confrontation</p> <p>5 has nearly ensued between him and a</p> <p>6 Brooklyn South employee on January 5,</p> <p>7 2011 after the close of business."</p> <p>8 Do you know what they're</p> <p>9 referring to?</p> <p>10 A Absolutely. I remember</p> <p>11 that. Absolutely.</p> <p>12 Q And what incident are they</p> <p>13 referring to?</p> <p>14 A I'm going to the counter on</p> <p>15 a ticket. There's George and then</p> <p>16 there's Cindy. Cindy is George's</p> <p>17 girlfriend, I didn't realize this, but</p> <p>18 she's a nice lady. I was talking to</p> <p>19 Cindy. I actually thought Cindy was a</p> <p>20 very pretty woman. I was taking to</p> <p>21 Cindy. George is getting upset I guess.</p> <p>22 I didn't realize they were dating. I had</p> <p>23 no idea.</p> <p>24 He starts yelling and</p> <p>25 screaming at me. I said that's enough,</p>	<p style="text-align: right;">Page 217</p> <p>1 M.H. Capogrosso</p> <p>2 very pretty.</p> <p>3 When I found out that they</p> <p>4 were dating, I said that's it.</p> <p>5 Q What did you say to Cindy?</p> <p>6 A I wasn't flirting. I</p> <p>7 thought Cindy was a very attractive</p> <p>8 woman. Marisol Cervoni is a very</p> <p>9 attractive woman.</p> <p>10 Q But what did you say to</p> <p>11 Cindy on this day, January 5?</p> <p>12 A I don't remember. I know it</p> <p>13 was maybe how are you doing, what are you</p> <p>14 doing for the weekend, are you going --</p> <p>15 you know, maybe something to that. I</p> <p>16 don't know. I don't remember the</p> <p>17 specifics.</p> <p>18 But I do remember I liked --</p> <p>19 Cindy was a nice lady. She was a nice</p> <p>20 lady and she was a beautiful woman.</p> <p>21 Q Did you try to -- did you</p> <p>22 try to fight Mr. Hon (phonetic)?</p> <p>23 A No. Absolutely not.</p> <p>24 Q Did you block in his car?</p> <p>25 A Absolutely not. If you look</p>

24 (Pages 214 - 217)

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1 M.H. Capogrosso  
 2 at the --  
 3 Q What happened?  
 4 A If you look at the affidavit  
 5 that George Hon wrote, George Hon wrote,  
 6 not what Bushra Vahdat said happened,  
 7 what George Hon wrote was that I was  
 8 sitting in my car, which I do after work,  
 9 to make phone calls to my clients, which  
 10 I'm required to do and that George  
 11 approached me, got out of his car. At  
 12 that point I get out of my car.  
 13 If somebody approaches me in  
 14 their car, stops their car -- if they  
 15 stay in the car, I stay in the car. If  
 16 you get out of your car, I'm getting out  
 17 of my car. And he approached me. That's  
 18 what George Hon wrote. Read it.  
 19 Q So did you have any sort of  
 20 confrontation with George Hon out in the  
 21 parking lot?  
 22 A I said what's the problem.  
 23 He started yelling and screaming at me  
 24 about this and that. I said what's the  
 25 problem. Then I find out they're dating.

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1 M.H. Capogrosso  
 2 I said fine, hands off, I don't need this  
 3 aggravation. She's a nice woman, but I  
 4 don't need the aggravation.  
 5 Q So he yelled at you. You  
 6 didn't yell at him?  
 7 A I'm sitting in my car like I  
 8 do every day. Either I go there, I sit  
 9 in a park, sometimes I go to the beach.  
 10 I'm sitting there, I'm making phone  
 11 calls. I'm sitting in my car.  
 12 Read what George wrote and  
 13 then read what Bushra Vahdat wrote, some  
 14 story, I'm blocking people. Read what  
 15 George wrote. He approaches me. He gets  
 16 out of his car. I'm sitting in my car.  
 17 That's the truth.  
 18 Q And so did George and Bushra  
 19 lie?  
 20 A George didn't lie. Bushra  
 21 lied. Bushra lied.  
 22 Q Okay.  
 23 A Bushra should not be a judge  
 24 if you make up a story like that.  
 25 Q So, Mr. Capogrosso, you see

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1 M.H. Capogrosso  
 2 this petition where 18 people sign a  
 3 letter saying that they believe that  
 4 you're a threat to their safety and that  
 5 your behavior is unstable.  
 6 What do you think that the  
 7 TVB should have done about this petition?  
 8 A They should have shown it to  
 9 me, number one. They should have shown  
 10 it to me, number one.  
 11 Number two, they should have  
 12 told me exactly what I did, exactly what  
 13 I did and to give me an attempt to  
 14 resolve it. Give me an attempt to  
 15 resolve it. Give me the specifics, give  
 16 me a chance to apologize if I said  
 17 something wrong or I did something wrong.  
 18 Give me an opportunity to apologize.  
 19 Give me an opportunity to address it.  
 20 Tell me the specifics.  
 21 Now, the fact that you feel  
 22 intimidated by my presence, I can't help  
 23 that. I'm sorry, I can't. I am who I  
 24 am. I can't help it. I can't change it.  
 25 I am who I am. I've been very direct

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1 M.H. Capogrosso  
 2 with you, very direct to the Court. I am  
 3 who I am.  
 4 But if you feel that well,  
 5 maybe that's your own personal  
 6 insecurity. You might have personal  
 7 insecurities. They're not my  
 8 insecurities. They're your insecurities.  
 9 But give me the exact threats that I used  
 10 or what exactly I did.  
 11 But if you have personal  
 12 insecurity, don't put that personal  
 13 insecurity on me.  
 14 Q Mr. Capogrosso, so this is a  
 15 petition which 18 separate people say  
 16 that they think that you're unstable and  
 17 a threat to their safety. How do you  
 18 feel about that?  
 19 A I want to know the  
 20 specifics. I feel insulted, number one  
 21 and I feel improperly accused. Tell me  
 22 what I did. Give me an opportunity to  
 23 defend myself and respond and respond to  
 24 it and resolve it. Give me that  
 25 opportunity. Don't make --

<p style="text-align: right;">Page 222</p> <p>1 M.H. Capogrosso</p> <p>2 Q Do you think you did --</p> <p>3 A Don't make accusations and</p> <p>4 don't give me an opportunity to respond.</p> <p>5 Q Do you think you did</p> <p>6 anything wrong to have 18 people feel</p> <p>7 that you're a threat to their physical</p> <p>8 safety?</p> <p>9 A I want to know the exact</p> <p>10 specifics. Tell me what I did.</p> <p>11 Q I know, but that's not the</p> <p>12 question. The question is --</p> <p>13 A No, I know.</p> <p>14 Q -- do you think you did</p> <p>15 anything wrong?</p> <p>16 A I don't think I did anything</p> <p>17 wrong, no, I do not. My clients loved</p> <p>18 me. My clients --</p> <p>19 Q Do you think that -- do you</p> <p>20 think that people get petitions written</p> <p>21 about them with 18 signatures saying</p> <p>22 they're a threat to their physical safety</p> <p>23 if they haven't done anything wrong?</p> <p>24 A I don't know why they wrote</p> <p>25 it. Tell me what I did to threaten their</p>	<p style="text-align: right;">Page 224</p> <p>1 M.H. Capogrosso</p> <p>2 A Sure.</p> <p>3 MR. THOMPSON: So,</p> <p>4 Ms. MacDonald, can I ask you to</p> <p>5 please mark this as Exhibit 7 if you</p> <p>6 haven't already.</p> <p>7 Q One more quick note,</p> <p>8 Mr. Capogrosso, you see how many of the</p> <p>9 signatures on here, such as Marisol</p> <p>10 Cervoni, supervisor as Roy Tucci, are</p> <p>11 people who have already signed complaints</p> <p>12 about your behavior; is that correct?</p> <p>13 A Well, they signed</p> <p>14 complaints, yes. Yes, I've seen the --</p> <p>15 you presented them, I've looked at the</p> <p>16 complaints and I've addressed them.</p> <p>17 Q And you feel that they were</p> <p>18 wrong?</p> <p>19 A I've already explained them</p> <p>20 to you. The first time I saw them and</p> <p>21 the first time I was given an</p> <p>22 opportunity -- you want to talk about</p> <p>23 Roy's? I didn't bump into him. Well, I</p> <p>24 already explained my position on each</p> <p>25 complaint --</p>
<p style="text-align: right;">Page 223</p> <p>1 M.H. Capogrosso</p> <p>2 physical safety. Tell me what I did.</p> <p>3 Listen, I'm a black --</p> <p>4 Q Do you think --</p> <p>5 A I'm a black belted martial</p> <p>6 artist, I am. Can I handle myself,</p> <p>7 absolutely. Am I more fearful what I</p> <p>8 would do to somebody as to what they</p> <p>9 would do to me, absolutely. I walk away</p> <p>10 from confrontations all the time. I</p> <p>11 don't want to get into it with anybody, I</p> <p>12 don't. I've been studying martial arts a</p> <p>13 long time. I've been in a boxing ring a</p> <p>14 long time. I don't want to have a</p> <p>15 confrontation with anybody, I do not. I</p> <p>16 know how to handle myself.</p> <p>17 That being said, if you feel</p> <p>18 intimidated or threatened by me, I can't</p> <p>19 help that. That's my persona. That's</p> <p>20 who I am.</p> <p>21 You tell me the specifics of</p> <p>22 what I did and I will resolve it.</p> <p>23 Q Well, there were a number of</p> <p>24 complaints that we've discussed and more</p> <p>25 that we will.</p>	<p style="text-align: right;">Page 225</p> <p>1 M.H. Capogrosso</p> <p>2 Q Okay.</p> <p>3 A -- that you've presented.</p> <p>4 Q And so you feel -- is it</p> <p>5 fair to say that you feel that these</p> <p>6 complaints that they were threatened were</p> <p>7 unfounded?</p> <p>8 A They're unfounded because</p> <p>9 there's no basis for them. Tell me what</p> <p>10 I did. They're absolutely unfounded.</p> <p>11 Tell me what I did. You don't have to</p> <p>12 like me. You know, good attorneys are</p> <p>13 not liked. I don't have to be liked to</p> <p>14 do my job. I have to do my job.</p> <p>15 People don't like me.</p> <p>16 Either they like me or they hate me, I</p> <p>17 know that, but I don't have to be liked.</p> <p>18 I was not shown --</p> <p>19 Q I think we have been --</p> <p>20 A Well, I have not been trying</p> <p>21 to endear myself to the clerks. I did</p> <p>22 not. I was there to do a job. The one</p> <p>23 time I tried doing it, talking to Cindy,</p> <p>24 George got upset.</p> <p>25 Q So let's move on to a new</p>



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1 M.H. Capogrosso  
 2 exhibit. I'm going to un-share my  
 3 screen.  
 4 MS. REPORTER: Did you guys  
 5 take a lunch break yet before I came  
 6 on or --  
 7 MR. THOMPSON: Would you  
 8 like one, Mr. Capogrosso?  
 9 THE WITNESS: I don't need  
 10 my brakes.  
 11 MR. THOMPSON: Ms. MacDonald  
 12 or Mr. Brodsky, you're also -- if you  
 13 would like one, we can certainly take  
 14 one. I'm perfectly happy to keep  
 15 going.  
 16 MR. VIDEOGRAPHER: You can  
 17 proceed Counsel, please.  
 18 MS. REPORTER: I mean I'd  
 19 like at least every hour and-a-half a  
 20 five minute break because you guys  
 21 are going -- and this is my fourth  
 22 deposition of the day, so --  
 23 MR. THOMPSON: We can take  
 24 a -- we can take a five minute break  
 25 if you'd like.

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1 M.H. Capogrosso  
 2 MS. REPORTER: Sure.  
 3 MR. THOMPSON: Why don't we  
 4 do that and reconvene at one 1:20.  
 5 MR. VIDEOGRAPHER: Okay.  
 6 The time is 1:15. We are off the  
 7 record.  
 8 (A short recess was taken.)  
 9 MR. VIDEOGRAPHER: The time  
 10 is 1:20. We are on the record.  
 11 MR. THOMPSON: Actually, I'm  
 12 having some problems here where it's  
 13 not letting me share my screen all of  
 14 a sudden.  
 15 Actually, can we go back off  
 16 the record while I figure out what's  
 17 wrong here? My apologies.  
 18 MR. VIDEOGRAPHER: Sure.  
 19 The time is 1:21. We are off the  
 20 record.  
 21 (A short recess was taken.)  
 22 MR. VIDEOGRAPHER: The time  
 23 is 1:22. We are on the record.  
 24 Q Mr. Capogrosso, I'm showing  
 25 you a document. Do you recognize this

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1 M.H. Capogrosso  
 2 document?  
 3 A Yes. I recognize the top,  
 4 yes. Is this the one from Yaakov? Yes,  
 5 absolutely, yes.  
 6 Q And what is this document?  
 7 A This is an affidavit from  
 8 Yaakov Brody about the incident that  
 9 occurred on December 22, 2011.  
 10 Q And this is the document  
 11 marked P-92 in your production; correct?  
 12 A Absolutely.  
 13 MR. THOMPSON: And,  
 14 Ms. MacDonald, I'll ask that this  
 15 document be marked Exhibit 8.  
 16 (The above-referred-to  
 17 statement was marked as Exhibit 8 for  
 18 identification as of this date.)  
 19 Q So who is Yaakov Brody?  
 20 A He's an attorney that works  
 21 down there.  
 22 Q Did you have a good  
 23 relationship with him?  
 24 A I never talked to the man.  
 25 I mean I never talked to him really. I

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1 M.H. Capogrosso  
 2 knew he was down there, but I never  
 3 really had any conversation with him  
 4 until the morning of -- I thought it was  
 5 December 22nd of December. He says  
 6 December 21, 2011.  
 7 Q And so you never talked to  
 8 him before this?  
 9 A Not really, no. He --  
 10 Q Okay.  
 11 A He used to like to schmooze  
 12 with the clerks all the time. He was up  
 13 there for a half an hour at a time  
 14 talking to the clerks, not me.  
 15 Q So Mr. Brody writes  
 16 "Mr. Capogrosso walked in and went to  
 17 reach for his briefcase which was lying  
 18 on the floor next to me. Mr. Capogrosso  
 19 then said excuse me so I could move over  
 20 so that he could get to his briefcase.  
 21 He already had plenty of time, but  
 22 regardless I shifted my body so he would  
 23 have even more room to reach for his  
 24 belongings."  
 25 Do you recall any of this?



<p style="text-align: right;">Page 230</p> <p>1 M.H. Capogrosso  2 A Yeah. It's not the truth.  3 I'll tell you what happened. I go in the  4 morning in the attorney's room, which is  5 about six feet long by about four feet  6 wide. It's a very small area. I get a  7 cup of coffee in the morning and the New  8 York Post. I get my coffee, I put it  9 under the bench -- under the bench with  10 my briefcase because I don't want my  11 coffee spilling on anybody's papers.  12 That day Brody is there.  13 He's right in front of my coffee. I say  14 excuse me, may I please get me coffee?  15 Excuse me, can I get my coffee? Brody  16 tells me excuse yourself, go fuck  17 yourself, you Jew hater anti-Semite. I  18 said what?  19 I get my coffee. I walk  20 away. I come back -- I go in the  21 courtroom, I argue a case. I come back,  22 put my coffee down where it was again and  23 Brody's right there, right -- right in  24 front of the coffee between -- the  25 coffee's under the bench. He's right</p>	<p style="text-align: right;">Page 232</p> <p>1 M.H. Capogrosso  2 anger management course.  3 Q And did anything happen  4 after that?  5 A That's it. Nobody took my  6 affidavit. Nobody asked me my story.  7 There's affidavit after affidavit after  8 affidavit here from lawyers who said they  9 were there, but the lawyer that was  10 actually there, me, got no opportunity to  11 explain what happened, nothing.  12 But Yaakov Brody gets to --  13 who created this incident, told me to go  14 fuck myself twice, gets the opportunity  15 to write an affidavit. He states at one  16 point I'm going to hit you with my  17 briefcase. I'm not the type of guy who's  18 going to hit you with a briefcase. I'm  19 not. If there's an incident and I got to  20 defend myself I will, but I'm not going  21 to hit you with my briefcase.  22 A lying lawyer at the DMV  23 who wanted me out, for what reason I  24 don't know. I was making too much money  25 in his presence. That's what I stated</p>
<p style="text-align: right;">Page 231</p> <p>1 M.H. Capogrosso  2 where the bench is and he says to me  3 again -- I say excuse me, can I get my  4 coffee? He says excuse yourself, go fuck  5 yourself you Jew hater anti-Semite.  6 That's what I remember and  7 that's what happened.  8 Q And what happened after  9 that?  10 A Then after that he walked  11 out about 20 feet away, he's looking in  12 and Mr. Jeff Meyers came in to talk to me  13 as to what happened.  14 Q And then?  15 A And then I threw a punch in  16 the vicinity of a wall, not in the  17 vicinity of anyone. I didn't hit the  18 wall, I wasn't charged and I was not  19 arrested. I was mad. The guy just told  20 me to go fuck myself twice. I didn't hit  21 the wall. I didn't hit Jeff Meyers.  22 I threw a punch in the  23 vicinity of a wall. I didn't hit the  24 wall and I was not charged and I was not  25 arrested and I was required to take an</p>	<p style="text-align: right;">Page 233</p> <p>1 M.H. Capogrosso  2 and that's what I'll hold to.  3 Q So your testimony is that  4 Mr. Brody just said fuck you, you Jew  5 hater anti-Semite out of nowhere?  6 A Yeah. I walked in in the  7 morning as I always did. I get coffee at  8 the deli. I get a paper at the deli. I  9 like the Post. I take my coffee, before  10 I go in the courtroom I put it under the  11 bench. I do it the same way all the  12 time.  13 I was reaching for my  14 coffee, for whatever reason he decided to  15 come at me this morning. Do I think he  16 was put up to it? I think so. I think  17 Bushra Vahdat who had just come on maybe  18 wanted me out, I don't know and this was  19 her opportunity to get me out. So she  20 created this incident, that's my opinion.  21 I was blindsided. I can  22 have an opinion though. But this is the  23 first time I think I was blindsided.  24 That's my opinion. Vahdat, Gelbstein  25 wanted me out and maybe they put this</p>

<p style="text-align: right;">Page 234</p> <p>1 M.H. Capogrosso  2 attorney up to it because out of the blue  3 he just happens to say this.  4 My mind was --  5 Q Why would --  6 A You got to let me finish.  7 My mind was someplace else. It was right  8 around Christmas time. I'm not really  9 thinking. I'm thinking about I got to  10 buy Christmas presents and what I'm  11 buying for who. That's where my mind was  12 on that morning. But that's what  13 happened.  14 Q Why would Bushra Vahdat and  15 Alan Gelbstein want you out?  16 A Bushra Vahdat -- well, they  17 had complaints against me from the  18 clerical staff, right and they had to  19 have a reason to have me removed and this  20 would have been an excellent reason,  21 right. They had all these complaints  22 that they were filing against me. There  23 was no sum and substance to any of them,  24 right.  25 But in order to get me</p>	<p style="text-align: right;">Page 236</p> <p>1 M.H. Capogrosso  2 What right does this man  3 have to call me an anti-Semite Jew hater?  4 Q So why would he think that  5 you're a Jew hater anti-Semite? Why  6 would he say that out of nowhere?  7 A Let me know. I'd like --  8 why don't you ask him? Why don't you ask  9 him? Ask this Mr. Yaakov Brody.  10 Q Had you ever --  11 A I'm making too much money in  12 his presence? I don't know. I'm an  13 Italian America down there. I'm  14 surrounded by Jewish lawyers. Most of  15 the lawyers down there are Jewish. Most  16 of the judges are Jewish.  17 Maybe I'm making too much  18 money. I don't know. Maybe I saw what  19 Judge Gelbstein was doing with the ticket  20 brokers. I don't know. But this guy had  21 it in for me --  22 Q Had --  23 A -- and I took the bait.  24 Q Had you ever discussed Jews  25 or Judaism with Mr. Brody before this?</p>
<p style="text-align: right;">Page 235</p> <p>1 M.H. Capogrosso  2 removed they needed an incident like  3 this, so they created one. They  4 didn't -- they didn't have no -- they had  5 no basis to grieve me. There was no  6 grievance filed against me. They grieved  7 in Emig Tieg (phonetic) in Manhattan  8 North because they had a basis for that,  9 but they had no basis to grieve me  10 because there was no sum or substance to  11 any of these complaints, otherwise they  12 would have, so they created an incident.  13 That's my opinion.  14 And I was blindsided. My  15 mind was someplace else, it was Christmas  16 time and I took the bait. I did the  17 right thing. I did throw a punch at a  18 wall. I didn't hit the wall because I  19 was upset. What makes me a Jew hater  20 anti-Semite? What nerve does this  21 attorney have to call me a Jew hater  22 anti-Semite? I'm working down there 10  23 years. There's not one complaint from a  24 motorist or a client that I used an  25 anti-Semitic remark or a racist remark.</p>	<p style="text-align: right;">Page 237</p> <p>1 M.H. Capogrosso  2 A Absolutely not. Listen, I  3 was there 10 years, 10 years I was there.  4 Look at the complaints against me. Not  5 one client or motorist made a statement  6 that I made an anti-Semitic or a racist  7 remark, not one.  8 Now I have to have this  9 lawyer call me a Jew hater anti-Semite.  10 For what reason?  11 Q So had you had conversations  12 with Jews -- about Jews or Judaism at all  13 with anyone previous to this?  14 A No. I don't -- no, no. I  15 don't care who you are, what religion you  16 are. I'm Catholic. I don't care what  17 you want to be. You're Jewish, fine. Do  18 whatever you like. God bless. I could  19 care less.  20 You look at the motorists  21 and the clients that I represented,  22 they're all nationalities, all races, all  23 of them. Not one indicated I made an  24 anti-Semitic or a racist remark and I'm  25 dealing with thousands, almost 850</p>

<p style="text-align: right;">Page 238</p> <p>1 M.H. Capogrosso</p> <p>2 clients I had on the docket. I'm dealing</p> <p>3 with hundreds of clients on a monthly</p> <p>4 basis. Not one made a statement that I</p> <p>5 made any type of statement, any type of</p> <p>6 racist or anti-Semitic statement, not</p> <p>7 one.</p> <p>8 I took this very personally</p> <p>9 and I had to go to an anger management</p> <p>10 course because I did take it personally.</p> <p>11 Q So Mr. Brody writes that</p> <p>12 "Mr. Capogrosso lashed out at me and said</p> <p>13 he was being nice by saying excuse me and</p> <p>14 next time he would simply hit me with his</p> <p>15 briefcase" and you said you never said</p> <p>16 that; correct?</p> <p>17 A I would never hit you with</p> <p>18 my briefcase. If I'm going to hit you,</p> <p>19 I'm going to hit you. If I'm going to --</p> <p>20 if I have to -- if it comes to the point</p> <p>21 where I've got to hit you, I'm going to</p> <p>22 hit you. All right.</p> <p>23 If I have to defend myself</p> <p>24 against a physical attack, a knife, a</p> <p>25 gun, I'm going to hit you or I'm going to</p>	<p style="text-align: right;">Page 240</p> <p>1 M.H. Capogrosso</p> <p>2 the room?</p> <p>3 A I remember -- let me think.</p> <p>4 The first time, no, it was just me and</p> <p>5 him.</p> <p>6 The second time I went back</p> <p>7 and I put my -- I went to the courtroom</p> <p>8 and I came back and I said this guy</p> <p>9 must -- I don't know. He was there in</p> <p>10 the same location. My coffee, I put my</p> <p>11 coffee back under the chair. He was</p> <p>12 exactly in the same exact location as the</p> <p>13 first time.</p> <p>14 At that time -- who was in</p> <p>15 there at that time? I think -- there was</p> <p>16 another attorney. It wasn't Rick Maher,</p> <p>17 that I know. He wasn't there. There was</p> <p>18 another lawyer there, but I forgot the</p> <p>19 guy's name. I forgot. There was one</p> <p>20 other lawyer there, but I forgot the</p> <p>21 guy's name. It wasn't Meyers, but there</p> <p>22 was another lawyer there.</p> <p>23 Q So he writes that you took a</p> <p>24 seat across from Mr. Brody and complained</p> <p>25 that you didn't -- that he didn't give</p>
<p style="text-align: right;">Page 239</p> <p>1 M.H. Capogrosso</p> <p>2 get hit, but I'm not going to hit you</p> <p>3 with my briefcase. That's not something</p> <p>4 I would do.</p> <p>5 This guy, Yaakov Brody, I</p> <p>6 don't know what type of man he is, but</p> <p>7 I'm not going to hit you with my</p> <p>8 briefcase. That's an absolute lie. I am</p> <p>9 not the type of guy who's going to hit</p> <p>10 you with a briefcase.</p> <p>11 Q So he writes that you</p> <p>12 proceeded to tell him that the next time</p> <p>13 you see him you better get out of his</p> <p>14 way.</p> <p>15 A That's not true.</p> <p>16 Q Did you say that?</p> <p>17 A No, absolutely not. Get out</p> <p>18 of my way for what reason? We are both</p> <p>19 working in the same building. How is he</p> <p>20 going to get out of my way? We are both</p> <p>21 attorneys at the same location. How is</p> <p>22 he going to get out of my way?</p> <p>23 Q He writes that there were</p> <p>24 three other attorneys in the room. Do</p> <p>25 you remember there being anyone else in</p>	<p style="text-align: right;">Page 241</p> <p>1 M.H. Capogrosso</p> <p>2 you enough room. He continued to ignore</p> <p>3 you he says.</p> <p>4 Then he writes, quote,</p> <p>5 "Eager to show how angry he really was,</p> <p>6 he took his coffee cup which still had</p> <p>7 some coffee inside and threw it my</p> <p>8 direction toward the garbage can that was</p> <p>9 next to me."</p> <p>10 Did you throw the garbage --</p> <p>11 the coffee cup?</p> <p>12 A First of all, we are in a</p> <p>13 lawyers' room that's six feet by about</p> <p>14 four feet wide. There's bench on either</p> <p>15 side. All right. I'm allowed to go in</p> <p>16 the lawyers' room. Even after -- I'm</p> <p>17 allowed to go in. My briefcase was in</p> <p>18 there, number one. I wanted to make sure</p> <p>19 nobody touched my briefcase. I had my</p> <p>20 files in it.</p> <p>21 Number two, my coffee's</p> <p>22 still there in the lawyers' room because</p> <p>23 I can't bring it into a courtroom. So I</p> <p>24 get my coffee now. Now, I'm sitting</p> <p>25 there and he comes in and sits there next</p>

<p style="text-align: right;">Page 242</p> <p>1 M.H. Capogrosso</p> <p>2 to the garbage can, this Brody. I finish</p> <p>3 my coffee cup. I said this guy is going</p> <p>4 to start in on me again. Now he's going</p> <p>5 to come at me for the third time. I</p> <p>6 finish my coffee and as I'm leaving, he's</p> <p>7 sitting right next to the coffee -- right</p> <p>8 next to the garbage can. I threw my</p> <p>9 empty cup, which I'm allowed to do, into</p> <p>10 a garbage can. I didn't throw it at him.</p> <p>11 I threw it into a garbage can and I</p> <p>12 walked out.</p> <p>13 And he came -- when I was in</p> <p>14 there first and then he comes back in for</p> <p>15 a third time and then he goes -- then</p> <p>16 what do you call it, Meyers comes in,</p> <p>17 into there and says what's going on, Jeff</p> <p>18 Meyers who was a lawyer. That's what</p> <p>19 happened that day.</p> <p>20 Q So Mr. Brody writes that "I</p> <p>21 complained to Mr. Capogrosso that this</p> <p>22 was not civilized behavior and I did</p> <p>23 nothing to warrant such hostility.</p> <p>24 Enraged, Mr. Capogrosso went on a rant on</p> <p>25 how I was a, quote, Jew fucking cunt, a</p>	<p style="text-align: right;">Page 244</p> <p>1 M.H. Capogrosso</p> <p>2 the statement. I know I was mad. I was</p> <p>3 mad and I did take an anger management</p> <p>4 course and I was blindsided, but all I</p> <p>5 did was say excuse me can I get my</p> <p>6 coffee.</p> <p>7 And if you look at the</p> <p>8 affidavit from Tahir, it states that I</p> <p>9 said excuse me twice. That's all I have</p> <p>10 to say about that.</p> <p>11 Q Mr. Brody writes that after</p> <p>12 that you went on to say that the place</p> <p>13 was run by Jews. Did you say that?</p> <p>14 A I don't recall saying that,</p> <p>15 but all the --</p> <p>16 Q Did you --</p> <p>17 A There are Jewish -- Judge</p> <p>18 Gelbstein is Jewish. It's a true</p> <p>19 statement. It is a true statement. Most</p> <p>20 of the judges down there, it's a true</p> <p>21 statement. Bushra Vahdat is a Jew. Ida</p> <p>22 Traschen is a Jew. I am an Italian</p> <p>23 American.</p> <p>24 Is it a true statement,</p> <p>25 yeah. Did I say that? I don't recall</p>
<p style="text-align: right;">Page 243</p> <p>1 M.H. Capogrosso</p> <p>2 phrase which he repeated about six or</p> <p>3 seven times."</p> <p>4 What's your memory of what</p> <p>5 happened here?</p> <p>6 A Well, I might have said</p> <p>7 that.</p> <p>8 MS. REPORTER: Wait, hold</p> <p>9 on. My machine just stopped writing.</p> <p>10 Let me read what I have and then pick</p> <p>11 up from there.</p> <p>12 (The requested portion was</p> <p>13 read back by the Court Reporter.)</p> <p>14 A Well, the man just told me</p> <p>15 to go fuck myself twice, I'm a Jew hater</p> <p>16 anti-Semite. Now out of the blue I'm</p> <p>17 making a statement like this, you Jew</p> <p>18 fucking cunt? First of all, he is a Jew.</p> <p>19 The word fucking, I might have used that</p> <p>20 and the C word, I'm not sure.</p> <p>21 But was he acting like a</p> <p>22 real man on that date provoking a fight</p> <p>23 when I say excuse me, can I get a cup of</p> <p>24 coffee?</p> <p>25 I mean I don't recall making</p>	<p style="text-align: right;">Page 245</p> <p>1 M.H. Capogrosso</p> <p>2 saying it. But is it a true statement,</p> <p>3 yeah, most of the judges in the Brooklyn</p> <p>4 TVB were Jewish, yes. Most of the</p> <p>5 lawyers were Jewish.</p> <p>6 I'm trying to understand in</p> <p>7 my head why this guy is telling me to go</p> <p>8 fuck myself, I'm a Jew hater anti-Semite</p> <p>9 when I've been there since 2005 and you</p> <p>10 don't have a complaint or an allegation</p> <p>11 from a client that I ever acted in this</p> <p>12 manner or said anything to a client or</p> <p>13 motorist.</p> <p>14 What is making this guy say</p> <p>15 this to me I'm trying to think and I</p> <p>16 still can't figure it out, other than he</p> <p>17 was put up to it, other than he was put</p> <p>18 up to it and I took an anger management</p> <p>19 course because I did throw a punch at a</p> <p>20 wall and I should not have thrown -- have</p> <p>21 done that, but I -- what do you want me</p> <p>22 to do? I'm a human being.</p> <p>23 Q So I'm not sure if I was</p> <p>24 quite clear. Did you -- did you actually</p> <p>25 say that the place was run by Jews?</p>



<p style="text-align: right;">Page 246</p> <p>1 M.H. Capogrosso</p> <p>2 A I don't recall saying that,</p> <p>3 but is that true that it is mostly Jewish</p> <p>4 judges, yes, that's a true statement. Do</p> <p>5 I remember saying it, no, I don't</p> <p>6 remember saying it. But is it true, yes,</p> <p>7 it is true.</p> <p>8 All my accusers in this</p> <p>9 case, Judge Gelbstein, Ida Traschen,</p> <p>10 Bushra Vahdat, Yaakov Brody who started</p> <p>11 this is Jewish, are Jewish. I'm an</p> <p>12 Italian American. That's a true</p> <p>13 statement.</p> <p>14 Q Do you think -- does it make</p> <p>15 a difference that they're Jewish or that</p> <p>16 you're Italian?</p> <p>17 A No. I don't care who you</p> <p>18 are. I treat everybody the same. I</p> <p>19 treat everyone respectfully. I treat</p> <p>20 everyone respectfully. Look at the --</p> <p>21 Q And do you --</p> <p>22 A Look at my clients, there's</p> <p>23 not one accusation from a client that I</p> <p>24 used -- and there's all different</p> <p>25 nationalities I'm dealing with down in</p>	<p style="text-align: right;">Page 248</p> <p>1 M.H. Capogrosso</p> <p>2 bad choice. Who else was there?</p> <p>3 Esposito, he gave me a -- he eventually</p> <p>4 got better, but at the start he was very</p> <p>5 tough.</p> <p>6 But the best judges at the</p> <p>7 start for me doing my job were Bonstein,</p> <p>8 Tilman and Chaune. They were the best.</p> <p>9 Abish (phonetic) was great in a courtroom</p> <p>10 for a lawyer in dealing with these cases.</p> <p>11 Q So, Mr. Capogrosso,</p> <p>12 yesterday at his deposition Judge</p> <p>13 Gelbstein testified that you called him</p> <p>14 to his face a beanie wearing Kike; is</p> <p>15 that true?</p> <p>16 A That's an absolute lie.</p> <p>17 That is an absolute lie. That judge</p> <p>18 should be taken off the bench for making</p> <p>19 a statement like that. That is an</p> <p>20 absolute lie. That is a judge who wrote</p> <p>21 that affirmation after I was removed from</p> <p>22 the Brooklyn TVB because of this incident</p> <p>23 in 2011 he wrote that affirmation. You</p> <p>24 don't see that -- you don't see that</p> <p>25 documented anyplace until after I was</p>
<p style="text-align: right;">Page 247</p> <p>1 M.H. Capogrosso</p> <p>2 Brooklyn TVB, Russian, Jewish, Italian,</p> <p>3 Arabic, Muslim, not one from a client or</p> <p>4 a motorist, that I used an anti-Semitic</p> <p>5 or racist remark.</p> <p>6 The only racist here is</p> <p>7 Judge Gelbstein who told me a spade is a</p> <p>8 spade.</p> <p>9 Q Does it make a difference</p> <p>10 that many of the people in leadership at</p> <p>11 the DMV are, in fact, Jewish?</p> <p>12 A No. I could care less. God</p> <p>13 bless, you got a job, God bless.</p> <p>14 Actually, the best judges were the Jewish</p> <p>15 judges. In a courtroom, Gelbstein gave</p> <p>16 you the best chance. Bonstein</p> <p>17 (phonetic), I mean not Gelbstein,</p> <p>18 Bonstein gave you a great chance to win.</p> <p>19 Chaune (phonetic) gave me a great</p> <p>20 chance. Tilman gave me a great chance to</p> <p>21 win. What do you call it?</p> <p>22 The best judges were the</p> <p>23 Jewish judges in the courtroom for me.</p> <p>24 Walters gave me good -- Walters gave me a</p> <p>25 terrible choice to win. Ross gave me a</p>	<p style="text-align: right;">Page 249</p> <p>1 M.H. Capogrosso</p> <p>2 removed.</p> <p>3 That is an absolute lie by</p> <p>4 that judge. He doesn't indicate the</p> <p>5 circumstances for which I said it or does</p> <p>6 anybody corroborate it, anybody witnessed</p> <p>7 it. That is an absolute lie and that</p> <p>8 judge should be removed because he made</p> <p>9 that statement to get me kicked out and</p> <p>10 that is why I'm looking for punitive</p> <p>11 damages.</p> <p>12 That is a lying lawyer</p> <p>13 acting as a judge who should be taken off</p> <p>14 the bench.</p> <p>15 Q And why at this point did he</p> <p>16 want you kicked out?</p> <p>17 A I don't -- why did he</p> <p>18 want -- you saw all the affidavits</p> <p>19 written about me. He wanted me out. You</p> <p>20 saw all the clerks' affidavits. He</p> <p>21 wanted me out. I was -- maybe I was</p> <p>22 making too much. I don't know why. He</p> <p>23 wanted to keep things nice and quiet down</p> <p>24 there so he could get a piece of the</p> <p>25 action.</p>



<p style="text-align: right;">Page 250</p> <p>1 M.H. Capogrosso</p> <p>2 I don't know why he wanted</p> <p>3 me out, but I never made that statement.</p> <p>4 Never made that statement to him.</p> <p>5 Q So Mr. Brody writes that</p> <p>6 when he protested to you how he could use</p> <p>7 the language about being Jewish that you</p> <p>8 stated "What do you care, just call me a</p> <p>9 fucking Italian ginny."</p> <p>10 A That should be Gini, but I</p> <p>11 never said. I don't recall saying that.</p> <p>12 Q You never said that?</p> <p>13 A No. I know I was upset. I</p> <p>14 walked in that morning and I was having a</p> <p>15 personal problem with some woman I was</p> <p>16 dating at the time and I'm thinking what</p> <p>17 present I have to buy her and my head was</p> <p>18 not there with buying this woman a</p> <p>19 present and next thing you know I get</p> <p>20 blindsided because I'm saying excuse me,</p> <p>21 can I get my coffee and he blindsided me.</p> <p>22 Q And is it safe to say so</p> <p>23 you -- let me withdraw that question.</p> <p>24 So, Mr. Capogrosso, you</p> <p>25 believe that Mr. Brody lied in this</p>	<p style="text-align: right;">Page 252</p> <p>1 M.H. Capogrosso</p> <p>2 out of the Screen Share.</p> <p>3 (The above-referred-to</p> <p>4 statement was marked as Exhibit 9 for</p> <p>5 identification as of this date.)</p> <p>6 Q Mr. Capogrosso, can you see</p> <p>7 this document?</p> <p>8 A Yes.</p> <p>9 Q And this document is from</p> <p>10 your production marked P-250; correct?</p> <p>11 A Yeah. This is from Richard</p> <p>12 Maher, yes.</p> <p>13 Q And what is this document?</p> <p>14 A Well, that was an affidavit</p> <p>15 that another attorney got to write, I</p> <p>16 never got to write my affidavit as to</p> <p>17 what happened, who was not even in the</p> <p>18 room that day. Maher was not even in the</p> <p>19 room. I know Brody was in the room at</p> <p>20 the first one, the time he said excuse</p> <p>21 me, go fuck yourself.</p> <p>22 And then the second time</p> <p>23 there was another attorney, I forgot the</p> <p>24 guy's name, but it wasn't Maher. Maher</p> <p>25 was not even in the room. I don't think</p>
<p style="text-align: right;">Page 251</p> <p>1 M.H. Capogrosso</p> <p>2 complaint; correct?</p> <p>3 A Absolutely, the whole thing,</p> <p>4 the whole thing. I pointed them out.</p> <p>5 I'm not hitting you with my briefcase. I</p> <p>6 am not going to hit you with my</p> <p>7 briefcase. I never heard of such</p> <p>8 nonsense. I am not the type of guy who's</p> <p>9 going to hit you with a briefcase. I</p> <p>10 never heard of that nonsense.</p> <p>11 There's no reason for me to</p> <p>12 act like this in the morning when I say</p> <p>13 excuse me to the man. I go from excuse</p> <p>14 me to go fuck -- I go from that, I say</p> <p>15 excuse me, I'm trying to be polite.</p> <p>16 Come on, a lying lawyer at</p> <p>17 the DMV wanted me out. I don't know why.</p> <p>18 I think Bushra Vahdat and Alan Gelbstein</p> <p>19 put him up to it. That's my opinion.</p> <p>20 Q Okay. So let's move on.</p> <p>21 MR. THOMPSON: This I</p> <p>22 believe was marked as Exhibit 8. If</p> <p>23 we didn't do that, let's please mark</p> <p>24 it that way.</p> <p>25 Let me close out of this and</p>	<p style="text-align: right;">Page 253</p> <p>1 M.H. Capogrosso</p> <p>2 he was even there that day, but I'll go</p> <p>3 through it, what I remember.</p> <p>4 Q So who is Richard Maher</p> <p>5 before we get too far?</p> <p>6 A He's a lawyer down there</p> <p>7 that worked at the TVB.</p> <p>8 Q Did you have a good</p> <p>9 relationship with Mr. Maher?</p> <p>10 A I never talked to the guy</p> <p>11 that much.</p> <p>12 Q And for the transcript Maher</p> <p>13 is M-A-H-E-R; correct?</p> <p>14 A I don't know how he spells</p> <p>15 his name. I don't know.</p> <p>16 Q It's spelled that way on</p> <p>17 here.</p> <p>18 A Right. I don't know how he</p> <p>19 spells it.</p> <p>20 Q So is it correct to say that</p> <p>21 this statement corroborates Mr. Brody's</p> <p>22 account?</p> <p>23 A I don't know. I don't know.</p> <p>24 That's his version. I don't know if it</p> <p>25 corroborates it or not. I don't know.</p>

<p style="text-align: right;">Page 254</p> <p>1 M.H. Capogrosso</p> <p>2 He wasn't in the room. They could be</p> <p>3 making up -- they could have corroborated</p> <p>4 the story after the fact.</p> <p>5 The man was not in the room.</p> <p>6 I know who was in the room. I was there.</p> <p>7 This man was not in the room.</p> <p>8 Q So it's your testimony that</p> <p>9 Mr. Maher made up what's in this</p> <p>10 statement?</p> <p>11 A Well, tell me exactly which</p> <p>12 portions. He was not in the room that</p> <p>13 day. I remember it very, very</p> <p>14 distinctly.</p> <p>15 Q Sure.</p> <p>16 A He was not in the room.</p> <p>17 When Brody came in and I said excuse me,</p> <p>18 me and him were the only ones there.</p> <p>19 When I came back again,</p> <p>20 there was another attorney there. I</p> <p>21 forgot the man's name. It wasn't this</p> <p>22 attorney. Maher was never anyplace to be</p> <p>23 seen.</p> <p>24 Q So first off I'll note he</p> <p>25 says that the lawyers' room can</p>	<p style="text-align: right;">Page 256</p> <p>1 M.H. Capogrosso</p> <p>2 Capogrosso grumbled about Mr. Brody's</p> <p>3 lack of decorum and began to berate</p> <p>4 Brody."</p> <p>5 So that's basically the same</p> <p>6 version of events that Mr. Brody said;</p> <p>7 correct?</p> <p>8 A No, it's not. It's not what</p> <p>9 happened. I'm not looking to sit down.</p> <p>10 I'm looking to get my coffee. I have to</p> <p>11 go in the -- I'm looking to get my</p> <p>12 coffee. I'm not looking to sit down. I</p> <p>13 said excuse me, can I get my coffee.</p> <p>14 Those are the words I actually stated.</p> <p>15 I'm not looking to sit down.</p> <p>16 My coffee is already under the bench. My</p> <p>17 briefcase is already under the bench.</p> <p>18 I'm looking to get my coffee so I can</p> <p>19 have some coffee before I go into the</p> <p>20 courtroom to argue my cases. I'm not</p> <p>21 looking to sit down. It's not correct.</p> <p>22 Q And when he says that you</p> <p>23 began to berate Brody; is that correct?</p> <p>24 A No. I said excuse me very</p> <p>25 politely, can I get my coffee. He said</p>
<p style="text-align: right;">Page 255</p> <p>1 M.H. Capogrosso</p> <p>2 accommodate up to a dozen attorneys; is</p> <p>3 that right?</p> <p>4 A The lawyers' room is</p> <p>5 precisely I would say six to eight feet</p> <p>6 long, five feet wide. There are benches</p> <p>7 that are at least, what, a foot in width,</p> <p>8 so that leaves about three feet to walk,</p> <p>9 three feet between the benches. Eight</p> <p>10 feet, six to eight feet long, five feet</p> <p>11 wide, the benches are a foot, that's the</p> <p>12 dimensions.</p> <p>13 I don't think it could fit</p> <p>14 12, no. I don't believe so, no.</p> <p>15 Q Mr. Maher writes "When</p> <p>16 Mr. Capogrosso entered, he asked</p> <p>17 Mr. Brody to move so he could sit.</p> <p>18 Mr. Brody did his best to reasonably</p> <p>19 comply with this request. The bench</p> <p>20 contained the belongings of other</p> <p>21 attorneys and Brody in fact tried to make</p> <p>22 more room so that Capogrosso could sit."</p> <p>23 Then there's a parenthetical here.</p> <p>24 "Far from acknowledging</p> <p>25 Mr. Brody's attempt to show him courtesy,</p>	<p style="text-align: right;">Page 257</p> <p>1 M.H. Capogrosso</p> <p>2 excuse yourself, go fuck yourself you Jew</p> <p>3 hater anti-Semite, at which point I took</p> <p>4 my coffee and I walked away. I came</p> <p>5 back, I put my coffee under it. He -- I</p> <p>6 had some coffee, I put it back under the</p> <p>7 bench so I could go argue my case.</p> <p>8 I come back, he's standing</p> <p>9 in the same place again and tells me</p> <p>10 again excuse myself, go fuck myself.</p> <p>11 Q Mr. Maher writes "Capogrosso</p> <p>12 then began to inveigh against Brody in</p> <p>13 vituperative terms as his temper</p> <p>14 continued to rise beyond all reason given</p> <p>15 the fact that Brody was extending</p> <p>16 courtesy to him by now under duress."</p> <p>17 A That -- this is an absolute</p> <p>18 lying lawyer at the DV -- at the TVB</p> <p>19 again.</p> <p>20 Q So why would Mr. --</p> <p>21 A I don't --</p> <p>22 Q Why would Mr. Maher lie?</p> <p>23 A Let me finish. Okay.</p> <p>24 Finish your question. Go ahead.</p> <p>25 Q I'm sorry. Part of the</p>

<p style="text-align: right;">Page 258</p> <p>1 M.H. Capogrosso</p> <p>2 problem is you speak and then you pause</p> <p>3 and then I think you're done and then I</p> <p>4 start talking.</p> <p>5 A What's the question?</p> <p>6 Q So why would Mr. Maher lie?</p> <p>7 A Ask Mr. Maher. I have no</p> <p>8 idea. This is not what happened. I'm</p> <p>9 telling you what happened. I'm not</p> <p>10 getting this angry over nothing. I'm not</p> <p>11 getting this angry if Brody didn't</p> <p>12 approach me and tell me to go fuck myself</p> <p>13 twice. I'm not getting angry like this</p> <p>14 and upset like this if the man didn't</p> <p>15 approach me and tell me to go fuck myself</p> <p>16 twice when all I said to the man was</p> <p>17 excuse me, can I get my coffee.</p> <p>18 Now write whatever you like,</p> <p>19 but no man's going to get angry like this</p> <p>20 unless he's told to go fuck himself</p> <p>21 twice.</p> <p>22 Q So you have no idea why</p> <p>23 Mr. Maher would write this?</p> <p>24 A I have no idea. Maybe</p> <p>25 they're friends. I don't know. I don't</p>	<p style="text-align: right;">Page 260</p> <p>1 M.H. Capogrosso</p> <p>2 required to do a job. You know, I choose</p> <p>3 my friends very carefully. I get -- you</p> <p>4 know, I choose them very carefully. I</p> <p>5 don't have to like everybody in this</p> <p>6 world.</p> <p>7 Did I like his approach, no,</p> <p>8 but he had -- he had his right to do his</p> <p>9 job. I had a right to do my job.</p> <p>10 Q Mr. Maher --</p> <p>11 A I don't have to like you.</p> <p>12 Q Mr. Maher writes again that</p> <p>13 your remarks, quote, "became intensely</p> <p>14 personal, directed at Brody, his person</p> <p>15 and his culture, his ethnicity and his</p> <p>16 very humanity." Is that true?</p> <p>17 A He told me to go fuck myself</p> <p>18 twice. Did I call him a fucking Jew</p> <p>19 cunt? I probably called him a fucking</p> <p>20 something. I don't remember exactly the</p> <p>21 words I did, but if you're going to tell</p> <p>22 me to go fuck myself, I am going to</p> <p>23 respond, all right.</p> <p>24 Q So this --</p> <p>25 A If you tell me to go fuck</p>
<p style="text-align: right;">Page 259</p> <p>1 M.H. Capogrosso</p> <p>2 know.</p> <p>3 Q Do you have a suspicion?</p> <p>4 A No. I don't know. Maybe</p> <p>5 they're two Jewish American attorneys and</p> <p>6 I'm an Italian American attorney and</p> <p>7 they're ganging up on me. I don't know.</p> <p>8 You figure it out. You ask them. I</p> <p>9 don't know.</p> <p>10 Q Did you --</p> <p>11 A That's a fact. He --</p> <p>12 Q Did you think that</p> <p>13 Mr. Maher --</p> <p>14 A I don't know. Go ahead.</p> <p>15 Q Did you think Mr. Maher</p> <p>16 wanted you out?</p> <p>17 A I don't know if he did or</p> <p>18 not. I never talked to the man. I</p> <p>19 didn't like him. I didn't like the way</p> <p>20 he handled cases. Did I like the man,</p> <p>21 no. Did I dislike him, no, I really</p> <p>22 didn't care. He had a job to do, I had a</p> <p>23 job to do.</p> <p>24 I wasn't -- I wasn't</p> <p>25 required to like other attorneys. I was</p>	<p style="text-align: right;">Page 261</p> <p>1 M.H. Capogrosso</p> <p>2 myself twice, that I'm an anti-Semite Jew</p> <p>3 hater, that I'm making too much money</p> <p>4 it's my opinion in your presence, I'm</p> <p>5 going to respond. I'm going to respond.</p> <p>6 I think any normal man would respond,</p> <p>7 whether an attorney or not. Outside of a</p> <p>8 courtroom when it's not -- any normal man</p> <p>9 is going to respond to an accusation like</p> <p>10 that.</p> <p>11 So is this man lying, yeah,</p> <p>12 he's lying.</p> <p>13 Q So Mr. Maher writes, quote,</p> <p>14 "Nothing Brody did or said during</p> <p>15 Capogrosso's verbal attack was in any way</p> <p>16 provocative or confrontational."</p> <p>17 A Well, first of all --</p> <p>18 Q Do you see that?</p> <p>19 A Yeah. Maher wasn't in the</p> <p>20 room on the first instance. He wasn't</p> <p>21 there on the second incident either, so</p> <p>22 he doesn't know what Brody said to me.</p> <p>23 Brody told me excuse yourself, go fuck</p> <p>24 yourself, you're a Jew hater anti-Semite</p> <p>25 twice, not once, twice. The first time I</p>

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1 M.H. Capogrosso  
 2 walked away. The second time I said  
 3 what's going on with this guy. He said  
 4 it twice to me and I was never given an  
 5 opportunity to write my affidavit.  
 6 Q So Mr. Maher writes that  
 7 Mr. Brody spoke up strongly, quote, "when  
 8 Capogrosso referred to him as a fucking  
 9 Jew cunt."  
 10 So there's the language  
 11 again. Does that refresh your memory at  
 12 all?  
 13 A Did I say something to  
 14 Brody, yeah. Yeah, I did. I don't know  
 15 if I called him a Jew cunt. Is he a Jew,  
 16 yeah. Did I use the word fuck, I might  
 17 have. Was he acting like a man at this  
 18 point, no, not in my estimation.  
 19 If you provoke a fight like  
 20 that and you say this out of the blue,  
 21 was he acting like a real man, no, he  
 22 wasn't acting like a man.  
 23 Did I use those words? I  
 24 don't think I used the word -- I don't  
 25 know what I said, but I probably said

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1 M.H. Capogrosso  
 2 something, but I don't know exactly what  
 3 I said, but I did say something. I was  
 4 mad. The man got me --  
 5 Q He said --  
 6 A The man blindsided me, got  
 7 me thrown out of the DMV, blindsided me.  
 8 I was thrown out of the DMV the next day  
 9 by Gelbstein telling me I'm not welcome  
 10 here anymore. I was never given an  
 11 opportunity to write an affidavit to say  
 12 what I had to say, my version of the  
 13 story, by anybody.  
 14 Judge Gelbstein, Bushra  
 15 Vahdat, Ida Traschen, never given an  
 16 opportunity to write my affidavit, where  
 17 every attorney got an opportunity to  
 18 write an affidavit. I was thrown out. I  
 19 had to take an anger management course  
 20 that cost me \$10,000. So was I upset  
 21 that day, yeah, I was upset.  
 22 Q Mr. Maher writes that  
 23 Michael Beer spoke up and said that you  
 24 crossed the line of decency. Do you  
 25 remember Michael Beer saying anything?

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1 M.H. Capogrosso  
 2 A Michael Beer was the other  
 3 attorney in the room the second time.  
 4 The second time Beer was there. Now you  
 5 refreshed it, yeah. Michael Beer was the  
 6 other attorney. He wasn't there the  
 7 first time. He was there the second  
 8 time, that I remember, Beer. Beer was  
 9 there.  
 10 When Brody was standing in  
 11 front of the coffee again and I said  
 12 excuse me, can I get my coffee, so Beer  
 13 was in the -- was in the room the second  
 14 time that Brody did this to me.  
 15 Q And Mr. Maher writes that  
 16 you, quote, "expressed the belief that  
 17 the DMV was in fact run by fucking Jew  
 18 cunts;" is that correct?  
 19 A I don't remember saying that  
 20 exactly. I don't remember saying that,  
 21 no. Is it run by Jewish judges and  
 22 lawyers, yeah. Am I an Italian American,  
 23 absolutely. Did Judge Gelbstein give me  
 24 an opportunity to write my affidavit and  
 25 response, no. Did Bushra Vahdat give me

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1 M.H. Capogrosso  
 2 an opportunity, no. Did Ida Traschen,  
 3 no. They accepted this all as truth,  
 4 these affidavits, giving me no  
 5 opportunity to respond.  
 6 Now, most of the judges down  
 7 there are Jewish. The best -- the best  
 8 judges in the courtroom were Jewish, I'm  
 9 not going to deny that, they were, but  
 10 these Jewish judges gave me no  
 11 opportunity to respond.  
 12 Q So let's move on to the next  
 13 exhibit.  
 14 A Please.  
 15 Q Mr. Capogrosso, can you see  
 16 this exhibit?  
 17 A Yes.  
 18 Q And you can see this is from  
 19 your production and marked P-96; correct?  
 20 A Yes. This is a Sadiq Tahir,  
 21 yes.  
 22 Q Do you recognize this  
 23 document?  
 24 A Yes.  
 25 Q And what is it?



<p style="text-align: right;">Page 266</p> <p>1 M.H. Capogrosso</p> <p>2 A It's an affidavit from</p> <p>3 Tahir, another attorney, who had the</p> <p>4 opportunity to write an affidavit and I</p> <p>5 didn't as to what happened.</p> <p>6 MR. THOMPSON: And,</p> <p>7 Ms. MacDonald, can we mark this as</p> <p>8 Exhibit 10.</p> <p>9 (The above-referred-to</p> <p>10 statement was marked as Exhibit 10</p> <p>11 for identification as of this date.)</p> <p>12 Q So, Mr. Capogrosso, who is</p> <p>13 Sadiq Tahir?</p> <p>14 A He's a lawyer at the</p> <p>15 Brooklyn TVB. We were friends at one</p> <p>16 point in time, really good friends. We</p> <p>17 used to go out drinking together.</p> <p>18 Q When was that?</p> <p>19 A Before this incident. We</p> <p>20 used to go out all the time. We used to</p> <p>21 hang out at the same clubs. We used to</p> <p>22 hang out. We both drank. We used to go</p> <p>23 out drinking in Brooklyn.</p> <p>24 Q Mr. Capogrosso, do you know</p> <p>25 what Mr. Tahir's current status is?</p>	<p style="text-align: right;">Page 268</p> <p>1 M.H. Capogrosso</p> <p>2 did. He says that and I did say that.</p> <p>3 Maybe he was in the room. I don't know.</p> <p>4 "He moved to the side to</p> <p>5 reach for his bag lying under the" -- "he</p> <p>6 then said again excuse me." I'm saying</p> <p>7 excuse me twice. Now Brody says why are</p> <p>8 you being rude, you have enough -- I said</p> <p>9 I didn't have enough room. If I</p> <p>10 didn't -- if I had room enough to get my</p> <p>11 coffee -- this -- why would I say excuse</p> <p>12 me?</p> <p>13 That's when Brody says</p> <p>14 excuse yourself, go fuck yourself, I'm a</p> <p>15 Jew hater anti-Semite.</p> <p>16 Q So up until this point when</p> <p>17 he talks about saying excuse me, is</p> <p>18 Mr. Tahir's account correct?</p> <p>19 A I don't know. What point?</p> <p>20 Mr. Capogrosso walked into the room. I</p> <p>21 did do that. I said excuse me. I did do</p> <p>22 that. I was looking for my coffee. Now,</p> <p>23 Brody didn't move away. I had to say</p> <p>24 excuse me twice. I had to say it twice.</p> <p>25 I have to be expelled from</p>
<p style="text-align: right;">Page 267</p> <p>1 M.H. Capogrosso</p> <p>2 A I think he's passed. I</p> <p>3 think he died.</p> <p>4 Q I heard that, too. You</p> <p>5 know, I don't --</p> <p>6 A I don't know.</p> <p>7 Q I heard people say that, but</p> <p>8 I don't know if it's actually true.</p> <p>9 A I don't know either, but we</p> <p>10 were friends at one point in time.</p> <p>11 Really -- I used to drive him -- I used</p> <p>12 to drive him home at night. He used to</p> <p>13 ask me for a ride home. We used to be</p> <p>14 really close. I went over to his</p> <p>15 apartment.</p> <p>16 This hurts me more than</p> <p>17 anything, this affidavit. We were</p> <p>18 really, really close me and him.</p> <p>19 Q So then if you were so</p> <p>20 close, why do you think he wrote this</p> <p>21 statement?</p> <p>22 A I don't know what happened.</p> <p>23 I don't know. I know that he tells me</p> <p>24 Mr. Capogrosso walked, and he's being</p> <p>25 truthful here, and said excuse me. I</p>	<p style="text-align: right;">Page 269</p> <p>1 M.H. Capogrosso</p> <p>2 the Brooklyn TVB because I'm asking an</p> <p>3 attorney back in December of 2011 excuse</p> <p>4 me, can I get my coffee. I have to be</p> <p>5 expelled and take an anger management</p> <p>6 course because this lawyer couldn't just</p> <p>7 move to the side and let me get my</p> <p>8 coffee. He had to call me -- tell me I'm</p> <p>9 a Jew hater, fuck you I'm a Jew hater and</p> <p>10 I'm the cause of this now.</p> <p>11 But go ahead, I'm listening.</p> <p>12 Q Mr. Tahir writes "Mr. Brody</p> <p>13 said you have enough room. Why are you</p> <p>14 so rude. Mr. Capogrosso got so upset</p> <p>15 that he started shouting against Jews.</p> <p>16 Mr. Beer who was also sitting in the room</p> <p>17 asked Mr. Capogrosso that it's enough,</p> <p>18 that you -- it's enough, you can't curse</p> <p>19 Jews." Is that correct?</p> <p>20 A Beer was in the room. Beer</p> <p>21 was in the room, that I remember. I</p> <p>22 remember -- said you had enough room -- I</p> <p>23 didn't have enough room. I said excuse</p> <p>24 me, can I get my coffee. He refused to</p> <p>25 move the first time and then he -- then</p>

<p style="text-align: right;">Page 270</p> <p>1 M.H. Capogrosso</p> <p>2 he's telling me excuse yourself, go fuck</p> <p>3 yourself.</p> <p>4 Then I come back, Beer is</p> <p>5 there. I remember Beer. I'm not sure if</p> <p>6 Sadiq was there and -- Sadiq must have</p> <p>7 obviously been there because he does say</p> <p>8 the words excuse me.</p> <p>9 And he refused to be --</p> <p>10 he -- then he said it again to me, excuse</p> <p>11 yourself, go fuck yourself. At that time</p> <p>12 I got upset. At that point I got upset.</p> <p>13 He walked -- at that point I got upset.</p> <p>14 Yes, I did, I'm not going to deny it. I</p> <p>15 took an anger management course.</p> <p>16 Q So he writes that</p> <p>17 "Mr. Capogrosso said you can call me a</p> <p>18 fucking Italian Gini. Mr. Brody said</p> <p>19 that you're an anti-Semite and you don't</p> <p>20 belong in this place. Mr. Brody shouted</p> <p>21 stop it and in the meantime Ms. Daniel,"</p> <p>22 I guess that means Danielle, "Calvo came</p> <p>23 into the room and tried to cool down the</p> <p>24 situation." Is this correct?</p> <p>25 A I know Beer was in the room.</p>	<p style="text-align: right;">Page 272</p> <p>1 M.H. Capogrosso</p> <p>2 was.</p> <p>3 I do recall Beer being in</p> <p>4 the room, that's what I remember. I</p> <p>5 don't remember Calvo coming out, but</p> <p>6 maybe she did. I know Maher was not in</p> <p>7 the room, that I remember.</p> <p>8 Q So Mr. Tahir writes "A</p> <p>9 little later Mr. Meyers came in the room</p> <p>10 and" -- I can't actually quite read what</p> <p>11 he says.</p> <p>12 A I have to apologize --</p> <p>13 Meyers is asking me to apologize to</p> <p>14 Brody. Meyers is asking me to apologize</p> <p>15 to a guy that just told me to go fuck</p> <p>16 myself twice. That's what I have to do.</p> <p>17 Q And what happened then?</p> <p>18 A I got -- I got upset. I got</p> <p>19 to apologize to a guy that just told me</p> <p>20 to go fuck myself twice? Are you kidding</p> <p>21 me? I mean are you really kidding me?</p> <p>22 That's when I threw the punch at the</p> <p>23 wall. I didn't hit the wall. I wasn't</p> <p>24 charged. I wasn't arrested. That's when</p> <p>25 I really got -- he's asking me to</p>
<p style="text-align: right;">Page 271</p> <p>1 M.H. Capogrosso</p> <p>2 I don't remember what he was saying. I</p> <p>3 was upset at that point in time. Listen,</p> <p>4 I was upset. You know, I don't recall</p> <p>5 exactly what I said.</p> <p>6 Did Calvo come out? Calvo,</p> <p>7 if she came out she took everybody's</p> <p>8 affidavit, every lawyers' affidavit but</p> <p>9 mine. She took every lawyers' affidavit</p> <p>10 but mine as to what happened.</p> <p>11 Beer I do remember in the</p> <p>12 room and that's it. That's all I</p> <p>13 remember. That's what I remember.</p> <p>14 Q So is there anyone -- you</p> <p>15 know, of what we've looked at so far, is</p> <p>16 there anything that Mr. Tahir has written</p> <p>17 that is untrue?</p> <p>18 A Well, I don't know. I don't</p> <p>19 know. I'm not going to say that because</p> <p>20 I'll admit to the fact I said -- that I</p> <p>21 said excuse me, that's what I'll admit</p> <p>22 to. I don't know about the rest. I</p> <p>23 don't recall the rest. I do remember</p> <p>24 saying excuse me twice. I do -- I do</p> <p>25 recall -- I do recall being upset. I</p>	<p style="text-align: right;">Page 273</p> <p>1 M.H. Capogrosso</p> <p>2 apologize to a guy that just told me to</p> <p>3 go fuck myself twice.</p> <p>4 At that point Brody is</p> <p>5 standing outside the -- outside the room.</p> <p>6 He looks in and then he goes -- goes to</p> <p>7 Judge Gelbstein. I think that's what</p> <p>8 happened. I'm not sure.</p> <p>9 Q So Mr. Tahir writes that you</p> <p>10 said to Mr. Meyers that I'll send you to</p> <p>11 the hospital.</p> <p>12 A I never said that. I never</p> <p>13 would say that. There's no reason for me</p> <p>14 having -- being mad at Meyers. No reason</p> <p>15 for me. Meyers didn't do anything.</p> <p>16 Meyers just walked in the room. He's</p> <p>17 asking me to apologize which is just</p> <p>18 terrible because you know the truth</p> <p>19 doesn't matter here. You know, the truth</p> <p>20 doesn't matter as to what actually</p> <p>21 happened. He's asking me to apologize to</p> <p>22 a guy that just told me to go fuck myself</p> <p>23 twice.</p> <p>24 I never said I was going to</p> <p>25 put Meyers in the hospital, never. I</p>